

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

## AGENCY

California Department of Social Services

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z92-1222-02	REGULATORY ACTION NUMBER 93-001-04C	EMERGENCY NUMBER 93-0121-05E	AGENCY FILE NUMBER (if any) RDB #0892-29	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

1993 JUN -1 AM 4:26

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

JUL 13 1993

Office of Administrative Law  
REGULATIONS

NOTICE

FILED

In the office of the Secretary of State  
of the State of California

JUL 13 1993

At 3:57 O'clock P.M.

MARCH FONG EU, Secretary of State

By Cynthia J. Price  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE WRO v. McMahon		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 93-#1-2	PUBLICATION DATE 1-1-93	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT Sections 50-061.1 through 50-061.8
SECTIONS AFFECTED	AMEND
	REPEAL

## 2. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))
- ☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

- ☐ Print Only ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

May 7, 1993 through May 24, 1993, Sections 50-061.1 through 50-061.8

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

- ☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

- ☐ Other (Specify)

## 6. CONTACT PERSON

Jim Rhoads, Assistant Chief, Regulations Development Bureau

## TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

JUN 1 1993

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN  
REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt new Section 50-061 to read:

50-061 WRO v. McMAHON

50-061

HANDBOOK BEGINS HERE

.1 Background

These regulations cover the retroactive payment and underpayment relief under an amended judgment in Welfare Rights Organization v. McMahon (WRO). Below is an overview of the case.

- .11 The case: The suit claimed that SDSS did not promptly implement 1983 legislation authorizing spouse providers to be paid for protective supervision and travel to health related appointments, termed medical accompaniment. From July 1, 1981 to June 30, 1983, IHSS statutes prohibited paying spouse providers for these services. The legislation (Stats. 1983, ch. 232, section 116.7) required these services be paid from July 1, 1983 on.
- .12 Original judgment: The Superior Court (San Diego Co.) entered judgment in this case on November 23, 1988. Its implementation was delayed because of problems in implementing the original judgment in Miller I. No implementing regulations were issued for the original judgment.
- .13 Amended judgment: The Superior Court approved an amended judgment in this case on July 19, 1991. The modifications were based on the amended judgment in Miller II, approved by the court on July 19, 1991. The judgments contain consistent provisions insofar as practical. SDSS plans to implement the WRO and Miller II cases concurrently.
- .14 The class covered: The amended judgment applies to spouse providers as defined in Section 50-061.411 and spouse applicants/recipients as defined in Section 50-061.412.
- .15 Retroactive payments: Claimants may be eligible for retroactive payments from July 1, 1983 through September 30, 1984, plus prejudgment interest.
- .16 Underpayments: Claimants may be eligible for underpayments from October 1, 1984 through September 30, 1985. There is no prejudgment interest for underpayments.
- .17 Statutory maximums: Retroactive payments and underpayments are limited to the severely impaired (SI) or nonseverely impaired (NSI) maximum levels in effect at the time. In addition, such payments must also be reduced by any IHSS amounts authorized to the claimed recipient for any month in which WRO retroactive payments and/or underpayments are claimed.

The following provisions describe the procedures by which potential class members will be notified, claims for retroactive payments and underpayments will be processed, and payments due will be determined and paid.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. Mahon dated July 19, 1991,  
Case No. 531015.



Adopt New Section 50-061.2 to read:

.2 Notification of Potential Claimants

.21 In order to notify potential claimants, the Department shall:

.211 Send an Explanatory Flyer in English and Spanish, and a Provider Standard Claim Form in English, with instructions of how to obtain the Spanish version, to all past and present IHSS spouse providers contained on the IHSS Payroll System, from July 1, 1983 through November 30, 1988, who at any time during this period lived at the same address as the recipient. The Department will utilize the services of the Franchise Tax Board and Department of General Services to determine and mail to the most current mailing address available for providers identified in this manner.

.212 Provide each CWD with sufficient quantities of Standard Claim Forms, Supplemental Claim Forms, Explanatory Flyers, and 17" x 22" posters modeled after the Explanatory Flyers. Each of the above documents and posters will be in both English and Spanish.

(a) For WRO, there shall be a Provider Standard Claim Form, and a Provider Supplemental Claim Form.

(b) Provider claimants and recipient claimants shall use the same version of these forms.

.213 Provide those interested organizations and groups listed in Appendix A-1 through A-9 of the final judgment referred to in Section 50-061.11 with copies of the Standard Claim Forms, Explanatory Flyers, and the posters, with a request to display the posters in a prominent location and distribute the Explanatory Flyers and Standard Claim Forms on request throughout the claim period.

.214 Provide the Federal Social Security Administration offices in California with copies of the posters, in English and Spanish, and request that agency to display the posters throughout the claim period in prominent locations where there is public access.

.22 The claim period identified in this section shall be the eight-month period from February 1, 1993 through September 30, 1993.

.23 In order to notify potential claimants, the CWDs shall:

.231 Place the posters described above in a prominent location in each local office having contact with the public throughout the claim period.

.232 Provide the Explanatory Flyer and Standard Claim Form to any person inquiring about eligibility for retroactive payments and/or underpayments for WRO v. McMahon.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015.

Adopt Section 50-061.3 to read:

.3 Application for Retroactive Payments and Underpayments

.31 Claimant Responsibilities

.311 The claimant shall cooperate in obtaining all information necessary to process the claim. Failure to provide the needed information shall result in the denial of the claim or of that portion of the claim for which the information is necessary.

.312 All claims for retroactive payments and underpayments shall be filed on a Standard Claim Form with the county welfare department in which the claimant currently resides.

.313 The claimant shall complete the claim form, sign the form under penalty of perjury, obtain the signature of a witness under penalty of perjury and mail or deliver the completed claim form to the CWD where she/he lives.

.314 The claim form shall be completed as stipulated in Sections 50-061.431 and .443, and hand-delivered by close of business or mailed and postmarked to the CWD by September 30, 1993. Claims hand-delivered or mailed and postmarked after this date shall be denied.

.315 If the claimant is sent a Notice of Action requesting the completion of either the Standard Claim Form or the Supplemental Claim Form, the claimant shall have forty-five (45) days from the date of the Notice of Action to complete and hand-deliver or mail the document to the CWD. Whenever the claimant must return a document or documents to the CWD within forty-five (45) days, the following shall apply:

(a) If mailed, the document(s) shall be postmarked by the last day of the forty-five (45) day period.

(b) If hand-delivered, the document(s) shall be delivered to the CWD no later than the close of business on the last day of the forty-five (45) day period.

(c) If required document(s) are not hand-delivered/mailed and postmarked within the time limits stated in this section, denial of the claim, or that portion of the claim for which the information is needed, shall result.

.316 Unless otherwise specified, all references to "days" in regard to time limits shall be construed to mean "calendar" days.

.32 CWD Responsibilities - Filing Date/Time Limits

- (a) The CWD shall date stamp the claim form when received. The CWD shall retain all claim forms and envelopes of any claims received for the WRO v. McMahon lawsuit.
- (b) The date of filing shall be the date postmarked on the envelope.
- (c) If the claim is filed in person at the CWD, the date of filing shall be the date received in the CWD office, e.g., the date stamped on the claim.
- (d) If the filing date cannot be determined pursuant to Section 50-061.32(b) and (c), the filing date shall be the date the claim was signed.
- (e) If the claim must be forwarded to another county for processing because the services were either provided or received in the second county, the first county's filing date shall apply.
- (f) If the date of filing on the Standard Claim Form is after September 30, 1993, the claim shall be denied.
- (g) If a Supplemental Claim Form, as described in Section 50-061.441, must be sent to the claimant, the filing date shall not change. The filing date shall remain the same as that which was determined in accordance with Sections 50-061.32, (b), (c) or (d).
- (h) If the CWD receiving the claim determines that services were received or provided while the recipient/applicant lived in another county, for all or part of the claim period, the CWD shall:
  - (1) Send a copy of the claim to each affected county. The CWD shall also send a Notice of Action to the claimant within 10 calendar days of the filing date explaining that the correct CWD will process the claim for the period of time in which the services were provided/received in the other county.
  - (2) As noted in Section 50-061.32 (e) the filing date for the claim will be that determined by the first CWD receiving the claim.
- (i) The CWD shall determine eligibility/ineligibility and compute the retroactive payments and underpayments due within 45 days of the filing date. The CWD shall input this information into the Case Management Information and Payrolling System (CMIPS) so interest can be computed on approved cases and the computation returned to the CWD.
  - (1) The CMIPS shall compute the total retroactive payment and/or underpayment amount due, with and without interest and return the computation on a form developed by SDSS to the appropriate CWD within five working days from the date of CWD input.

- (j) Within 10 working days of receiving the computation from CMIPS, the CWD shall issue a Notice of Action to the claimant which contains the information specified in Section 50-061.631, and, if applicable, Sections 50-061.634 and .635. Once the CWD has issued the notice to the claimant, the CWD shall then send the necessary documents through the CMIPS so payment may be issued.
- (k) CWDs receiving claims forwarded from another county shall process the claim, determine eligibility, compute retroactive payments and/or underpayments, compute interest, issue the necessary Notice of Action and forward the necessary documents to the CMIPS within 45 days of receipt from the original county.
- (l) ~~Time limits for CWDs specified in Section 50-061.132 may be exceeded~~ In situations where completion of the ~~determination of eligibility~~ claims process for retroactive payments and/or underpayments is delayed due to circumstances beyond control of the CWD, ~~in these instances~~ the reason(s) for the delay(s) shall be documented in the affected claimant's case file.
- (m) Unless otherwise specified, all references to "days" for these time limits shall be construed as "calendar" days.

.33 Retroactive Payment and Underpayment Time Periods

.331 Eligibility for retroactive payments under WRO shall be limited to the following periods:

- (a) July 1, 1983 through September 30, 1984 for claims in which the housemate was a spouse provider.

.332 Claims in which the period claimed is beyond the retroactive time period specified in Section 50-061.331(a) shall be processed as underpayments for the period October 1, 1984 through September 30, 1985.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015.



Adopt Sections 50-07961.41, .42, .43, and .44 to read:

.4 Claim Processing

.41 Conditions for Class Membership

.411 IHSS spouse provider claimants may be eligible to receive retroactive payments and/or underpayments in WRO. Spouse provider claimants who are potentially eligible to receive these payments are persons who:

- (a) Were legally married to an individual meeting all applicable conditions stated in Section 50-061.412, and provided protective supervision and/or medical accompaniment services to that individual during the applicable retroactive payment and/or underpayment period specified in Section 50-061.33; or
- (b) Were considered to be a member of a married couple as defined for the purposes of SSI/SSP eligibility in 20 CFR 416.1806, lived with an individual meeting all applicable conditions stated in Section 50-061.412, and provided protective supervision and/or medical accompaniment services during the applicable retroactive payment and/or underpayment period specified in Section 50-061.33; and
- (c) Left full-time employment or was prevented from obtaining full-time employment because no other suitable provider was available, and
- (d) Needed to provide these services to their spouse, or inappropriate placement or inadequate care may have resulted, and
- (e) Were not compensated for providing protective supervision and/or medical accompaniment services for the month(s) claimed.

.412 IHSS recipient/applicant claimants potentially eligible to receive retroactive payments and/or underpayments are persons who:

- (a) Were California residents, aged, blind, or disabled during the applicable retroactive and/or underpayment period specified in Section 50-061.33 and met the eligibility conditions of MPP 30-755; and,
- (b) Required assistance during transportation to and from appointments with physicians, dentists and other health practitioners, where the recipient's presence was required at the destination, and/or

- (c) Were nonself-directing, confused, mentally impaired, or mentally ill, and may have been hurt or injured if left alone, thus meeting the general conditions or requiring the service of protective supervision; and,
- (d) Received IHSS benefits, but were denied protective supervision services during the applicable retroactive payment and/or underpayment period solely because the provider was a spouse, and the amount of benefits was less than the severely impaired or nonseverely impaired maximum, as applicable at the time; and/or
- (e) Received IHSS benefits, but were denied medical accompaniment services during the applicable retroactive payment and/or underpayment period solely because the provider was a spouse, and the amount of benefits was less than the severely impaired or nonseverely impaired maximum, as applicable at the time; or
- (f) Applied for IHSS services during the applicable retroactive payment and/or underpayment period and were denied protective supervision services solely because the provider was a spouse; and/or
- (g) Applied for IHSS services during the applicable retroactive payment and/or underpayment period and were denied medical accompaniment services solely because the provider was a spouse; and,
- (h) Paid the spouse provider during the applicable retroactive payment and/or underpayment period for the provision of protective supervision and/or medical accompaniment services.

.42 Review of Class Membership Questions

.421 The CWD shall review the responses to the class membership qualifying questions in Part I, Section 2 of the Standard Claim Form.

- (a) The CWD shall issue a denial Notice of Action explaining that the claimant is not a WRO v. McMahon class member if the claimant did any of the following:
  - (1) The claimant answered "no" to 2A, or 2B, or 2E, or 2F;
  - (2) The claimant answered "no" to both 2C and 2D;
  - (3) The claimant answered "no" to both parts of 2G.

- (b) If the claimant answered "yes" to 2A, or 2B, or 2C, or 2D, or 2E, or 2F, or 2G, and the CWD has information available which contradicts the claimant's contention of class membership, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of this information. The claimant shall have 45 days from the date of the Notice of Action to provide additional information if available.
- (c) If the claimant answered "unknown" to either questions in 2G, the CWD shall issue a Notice of Action and a WRO v. McMahon Supplemental Claim Form to the claimant. The claimant shall have 45 days from the date of the Notice of Action to complete the Supplemental Claim Form and return it to the CWD.

.43 Review of Information Contained on the Standard Claim Form

.431 The CWD shall review each Standard Claim Form submitted to determine if the claimant has provided the information necessary to further process the claim. For the purposes of this determination, a claim shall be considered complete when all the following requirements are met:

- (a) The following information requested in Part I, Section 1 is provided: claimant's name, social security number, and current address.
- (b) All qualifying questions in Part I, Section 2 are answered.
- (c) If Part I, Section 3 is applicable, the claimant's address at the time they claim to have provided/received protective supervision and/or medical accompaniment services.
- (d) The following information requested in Part I, Section 4 is provided: name of person whom it is claimed needed protective supervision and/or medical accompaniment; his/her current or last known address; and his/her relationship to the provider.
- (e) Part I, Section 5, is completed with date of marriage of claimant and spouse.
- (f) Part I, Section 6, is signed by the claimant and dated.
- (g) In Part I, Section 7, the Standard Claim Form is signed, dated, and the verifying witness' relationship to the claimant and the recipient is identified and this person's address is listed.
- (h) The information requested in Part II and Part III is provided, as applicable.

- (i) The following information requested in Part IV is provided to support the application only if more than eight hours per month of medical accompaniment hours are claimed: the name of the health professional/health facility visited by the claimed recipient; location of origin and destination; type of transportation used; number of months/years visits took place; number of visits per month/year; and approximate duration of round-trip.

- .432 If the CWD determines that Part I, or Part IV if applicable, of the Standard Claim Form has not been completely filled out in accordance with the criteria in Section 50-061.431, the CWD shall send the claimant a Notice of Action specifying that portion of the form which is in need of completion. The Notice of Action shall also state that the claimant has 45 days from the date of the Notice of Action to submit the completed form to the CWD. If the completed form is not returned to the CWD within the 45 days, the claim shall be denied, and a denial Notice of Action shall be mailed to the claimant.
- .433 Upon receipt of the information requested in Section 50-061.432, the CWD shall review the resubmitted information to determine if the claim is now complete in accordance with the criteria in Section 50-061.431. If complete, the CWD shall continue processing the claim.
  - (a) If the claim is still not complete because the claimant did not provide all the requested information, the CWD shall deny the claim.
- .434 Failure on the part of the claimant to respond within the 45-day period shall result in denial of the claim.
- .435 The CWD shall review Parts II, III, and IV of the Standard Claim Form to determine if claimed medical accompaniment hours for any month during the retroactive payment and underpayment claim periods exceed eight hours and if information submitted on Part IV of the form supports the hours claimed. The CWD shall use the medical accompaniment regulations to determine entitlement to medical accompaniment services.

HANDBOOK BEGINS HERE

- .436 Medical accompaniment regulations are contained in MPP Section 30-757.15.

HANDBOOK ENDS HERE

- (a) If the CWD determines that Part IV is incomplete or does not support the claim for more than eight hours of medical accompaniment for any month during the retroactive payment or underpayment claim periods, according to the standards set forth in Section 50-061.435, the CWD shall issue a Notice of Action for Adverse Information specifying that Part IV is in need of completion or requesting that the claimant support the hours claimed. The Notice of Action shall also state that the claimant has 45 days from the date of the Notice of Action to submit the completed section or provide the additional information, if available, to the CWD.
- (b) Failure on the part of the claimant to respond within the 45-day period shall result in denial of the unsupported portion of the claim.
- (c) If the CWD determines that the medical accompaniment hours claimed during the retroactive payment and underpayment period do not exceed eight hours, or if more than eight hours per month are adequately supported by information submitted on Part IV of the Standard Claim Form, the CWD shall continue processing the claim.

.44 Supplemental Claim Form

- .441 The CWD shall issue a Supplemental Claim Form to the claimant whenever the CWD is unable to locate either a previously approved IHSS case record or a record of denial of IHSS eligibility. The purpose of the Supplemental Claim Form shall be to: (1) request information from the claimant regarding the claimed recipient's applying for and being denied IHSS during the retroactive payment period; and (2) determine whether the person claiming to have received protective supervision and/or medical accompaniment services met and would have met the income/resource eligibility requirements for IHSS services during the period claimed. The CWD shall include a Notice of Action with the Supplemental Claim Form stating that completion of the form is necessary in order to further determine eligibility for retroactive payments and underpayments and that the claimant must return the completed form to the CWD within 45 days.
  - (a) If the CWD has no case record of an IHSS application and/or denial for the claimed recipient during the retroactive payment periods being claimed, the Notice of Action accompanying the Supplemental Claim Form shall request the claimant to complete all parts of the Supplemental Claim Form in accordance with the criteria in Section 50-061.443.
  - (b) If the CWD has a case record showing the claimed recipient had applied for and was denied IHSS for the retroactive payment periods being claimed, but the CWD cannot determine from the case record whether the claimed recipient met IHSS income/resource eligibility criteria, the Notice of Action



accompanying the Supplemental Claim Form shall request the claimant to complete Parts I, III, IV of the Supplemental Claim Form, relating to income/resource eligibility for IHSS, in accordance with the criteria in Section 50-061.443.

- (c) If the CWD has lost or destroyed its records or did not maintain adequate records during the claimed period, the CWD shall send the Supplemental Claim Form requesting completion of applicable parts of the form, in accordance with the criteria in Section 50-061.443.
- .442 Upon receipt the CWD shall date stamp the submitted Supplemental Claim Form following the provisions of Section 50-061.32(a).
- .443 The CWD shall review the submitted Supplemental Claim Form to ensure that all required questions are answered, all required information is provided, and that the form is signed and dated by both the claimant and a verifying witness. For the purposes of this determination, the Supplemental Claim Form shall be considered complete when the required sections are completed as specified in Section 50-061.441 and:
- (a) The following information requested in Part I, Section 1 is provided: name and current or last known address of the spouse who claims to have provided protective supervision and/or medical accompaniment services during the months claimed.
  - (b) Part I, Section 2, the name and current or last known address of the spouse who claims to have received protective supervision and/or medical accompaniment services during the months claimed, is completed.
  - (c) If Part II is applicable, Sections 1 and 2 requesting information and documentation related to an IHSS application and/or denial for the person for whom it is claimed received protective supervision and/or medical accompaniment services during the months claimed, is completed.
  - (d) Part III, Sections 1, 2, and 3 relating to the (1) receipt of Supplemental Security Income/State Supplemental Program (SSI/SSP) benefits by spouse named in Part I, Section 2; (2) combined monthly income for claimant and spouse; and (3) the amount of combined average monthly liquid resources in excess of \$2250 for claimant and spouse; during the years for which hours are claimed.
  - (e) Part IV of the Supplemental Claim Form is signed and dated by the claimant.

- (f) Part IV, Section 2 is signed by a verifying witness, dated, with his/her address and relationship to the claimant completed.

.444 If the CWD determines that the Supplemental Claim Form is incomplete based on the criteria in Section 50-061.443, the CWD shall send a Notice of Action requesting the missing information and attach to the Notice of Action a copy of the original Supplemental Claim Form submitted. The Notice of Action shall specify the section number of the form which is in need of completion and shall state that the claimant has 45 days from the date of the Notice of Action to submit the completed form or the claim will be denied.

- (a) Upon receipt of the information requested in Section 50-061.444, the CWD shall review the submitted information to determine whether the Supplemental Claim Form is now complete in accordance with Section 50-061.443. If complete, the CWD shall continue with processing the claim. If the Supplemental Claim Form is still not complete, the CWD shall deny the claim.

.445 If the completed Supplemental Claim Form is not received from the claimant within the 45-day limit, the CWD shall deny the claim in accordance with Section 50-061.314.

.446 Information submitted by the claimant on the Supplemental Claim Form shall be presumed to be true as long as the form has been signed and dated by both the claimant and a witness, unless the CWD has information available which contradicts information supplied by the claimant. If the CWD has such information available and the CWD determines that information indicates the claimed recipient of protective supervision/medical accompaniment services would not have been eligible for IHSS, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the contradictory information. The claimant shall have 45 days from the date of the Notice of Action to provide additional information if available.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015; and 20 CFR 416.1806.

Adopt new Section 50-061.45 to read:

.45 Existing Case File and Information Requirement

- .451 The CWD shall determine if there is an existing case file with which to match claim information for determining eligibility.
- .452 In accordance with Section 50-061.44, if the CWD cannot locate a case file for the IHSS recipient/applicant for whom it is claimed protective supervision and/or medical accompaniment services were provided without IHSS compensation, or if the CWD cannot determine eligibility from the existing case file for the months claimed, the CWD shall send the Supplemental Claim Form to the claimant.
- .453 All information received and/or obtained in relation to the WRO v. McMahon court case, and all forms generated as a result of the court case, shall be retained by the CWD in a WRO case file for each claimant. These documents shall include, but not be limited to:
- (a) Completed Standard Claim Form and any subsequent resubmittals;
  - (b) Completed Supplemental Claim Form, if applicable, and any subsequent resubmittals and any documents submitted by the claimant in responding to the Supplemental Claim Form;
  - (c) Completed Eligibility Determination Worksheets, including documentation of retroactive payment and prejudgment interest calculations as well as underpayment calculations;
  - (d) A copy of any Notices of Action sent to the claimant;
  - (e) A copy of any correspondence with other CWDs in relation to the claim;
  - (f) All CMIPS documents; and,
  - (g) A copy of all other documents used in the determination of eligibility and computation of payments.
- .454 The CWD shall not require the claimant to provide information other than that requested on the Standard Claim Form and, if needed, the Supplemental Claim Form. However, the claimant shall be offered an opportunity, in the form of a Notice of Action for Adverse Information, to submit additional information that might rebut a possible denial based on CWD records. The CWD shall consider any additional information submitted by the claimant to support his/her claim.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015.

Adopt new Section 50-061.46 to read:

.46 Presumptive Need For and Provision of Protective Supervision

- .461 If other information available to the CWD, including, but not limited to, previous or current IHSS case files, does not rebut the presumption of need for protective supervision, the person claiming to have needed protective supervision is presumed to have needed protective supervision for the months claimed during the applicable retroactive payment and/or underpayment period if:
- (a) A need for protective supervision was assessed at any time, in which case the need shall be from that time forward; or,
  - (b) The need for protective supervision is attested to by a sworn statement on the Standard Claim Form from the claimant and verified by a sworn statement of a witness. The CWD shall consider any other documentation submitted by the claimant to support the presumption of need for protective supervision.
- .462 The person claiming to have needed protective supervision is presumed to have received protective supervision services for the months claimed during the applicable retroactive payment and underpayment periods if the delivery of such services is attested to by a sworn statement from the claimant and verified by a sworn statement of a witness, contained on the Standard Claim Form, and other information available to the CWD, including, but not limited to, previous or current IHSS case files, does not rebut the presumption of delivery of protective supervision services.
- (a) The CWD shall presume that any protective supervision services provided and claimed were not provided voluntarily.
- .463 If information available to the CWD rebuts the presumption of either the need for or the delivery of protective supervision services during any of the months claimed during the applicable retroactive payment and underpayment period, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the contradictory information. The claimant shall have 45 days from the date of the Notice of Action to provide additional information if available.
- .464 If the CWD's IHSS recordkeeping system shows no record of the claimed recipient ever applying for or being denied IHSS for the period being claimed, the CWD shall issue a Notice of Action requesting the claimant to complete an attached Supplemental Claim Form in accordance with Section 50-061.44. The claimant shall have 45 days from the date of the Notice of Action to submit the completed Supplemental Claim Form.

- (a) If the claimant does not submit the Supplemental Claim Form within the 45-day period, the claim shall be denied.
- (b) If the claimant submits the Supplemental Claim Form, and it is complete based on criteria in Section 50-061.443, the CWD shall continue processing the claim.
- (c) If the submitted Supplemental Claim Form is incomplete based on criteria in Section 50-061.443, the CWD shall follow instructions in Section 50-061.444.
- (d) If the CWD determines that information supplied by the claimant verifies that the claimed recipient did in fact apply for and was denied IHSS during the retroactive payment period being claimed, the CWD shall continue to process the claim to determine eligibility for payments.
- (e) If the CWD determines that the information supplied by the claimant does not verify the claimed recipient applied for and was denied IHSS during the retroactive payment period being claimed, the CWD shall issue a denial Notice of Action stating the specific reason(s) for the denial.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015.



Adopt new Section 50-061.47 to read:

.47 Presumptive Need For and Provision of Medical Accompaniment

- .471 If other information available to the CWD, including, but not limited to, previous or current IHSS case files, does not rebut the presumption of need for medical accompaniment, the person claiming to have needed medical accompaniment is presumed to have needed medical accompaniment for the months claimed during the applicable retroactive payment and/or underpayment period if:
- (a) A need for medical accompaniment was assessed at any time, in which case the need shall be from that time forward; or,
  - (b) The need for medical accompaniment is attested to by a sworn statement on the Standard Claim Form from the claimant and verified by a sworn statement of a witness. The CWD shall consider any other documentation submitted by the claimant to support the presumption of need for medical accompaniment.
- .472 The person claiming to have needed medical accompaniment is presumed to have received medical accompaniment services for the months claimed during the applicable retroactive payment and underpayment periods if the delivery of such services is attested to by a sworn statement from the claimant and verified by a sworn statement of a witness, contained on the Standard Claim Form, and other information available to the CWD, including, but not limited to, previous or current IHSS case files, does not rebut the presumption of delivery of medical accompaniment services.
- (a) The CWD shall presume that any medical accompaniment services provided and claimed were not provided voluntarily.
- .473 If information available to the CWD rebuts the presumption of either the need for or the delivery of medical accompaniment services during any of the months claimed during the applicable retroactive payment and underpayment period, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the contradictory information. The claimant shall have 45 days from the date of the Notice of Action to provide additional information if available.
- .474 If the CWD IHSS recordkeeping system shows no record of the claimed recipient ever applying for or being denied IHSS for the period being claimed, the CWD shall issue a Notice of Action requesting the claimant to complete an attached Supplemental Claim Form in accordance with Section 50-061.44. The claimant shall have 45 days from the date of the Notice of Action to submit the completed Supplemental Claim Form.

- (a) If the claimant does not submit the Supplemental Claim Form within the 45-day period, the claim shall be denied.
- (b) If the claimant submits the Supplemental Claim Form, and it is complete based on criteria contained in Section 50-061.443, the CWD shall continue processing the claim.
- (c) If the submitted Supplemental Claim Form is incomplete based on criteria contained in Section 50-061.443, the CWD shall follow instructions in Section 50-061.444.
- (d) If the CWD determines that information supplied by the claimant verifies that the claimed recipient did in fact apply for and was denied IHSS during the retroactive payment period being claimed, the CWD shall continue processing the claim to determine eligibility for payments.
- (e) If the CWD determines that the information supplied by the claimant does not verify the claimed recipient applied for and was denied IHSS during the retroactive payment period being claimed, the CWD shall issue a denial Notice of Action stating the specific reason(s) for the denial.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015.

Adopt new Section 50-061.48 to read:

.48 Eligibility for Underpayments

.481 WRO claims shall be eligible for underpayment consideration only if their eligibility for WRO retroactive payments extended through the end of the retroactive payment claim period, September 30, 1984.

- (a) Claimants shall have their WRO claim for underpayments denied if their eligibility for retroactive payments does not extend through the end of the WRO retroactive payment claim period, September 30, 1984. Their WRO claim for underpayments shall be denied with a Notice of Action stating the reason for the denial.

HANDBOOK BEGINS HERE

- (b) Eligibility for underpayments in WRO results from IHSS cases or WRO cases carried through the effective date of the corrected spouse provider regulations, MPP 30-763.214(f), September 1984. Potentially eligible cases are those that were not corrected as of the effective date of the revised regulations. Claims for underpayments in which there was not an active case requiring updating to reflect the housemate regulations shall be denied, with the exception of approved WRO claimants whose eligibility extends through the end of the retroactive claim period.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgement regarding WRO v. McMahon dated July 19, 1991, Case No. 531015.

Adopt new Sections 50-061.51, .52, .53, .54, .55, .56, and .57 to read:

.5 Use of County Worksheets to Document Findings and Calculate Payments Due.

- .51 The CWD shall use the WRO v. McMahon Retroactive Payment Eligibility Determination Worksheet to document all determinations made on each claim submitted. Information from the Standard Claim Form, and the Supplemental Claim Form and case record, where available, shall be used to complete the worksheet.
- .511 The CWD shall record the claimed provider's and recipient's names, social security numbers, and case number, at the top of Part I of the worksheet.
- .512 The CWD shall determine the claimed recipient's eligibility for class membership by reviewing the claimant's response on Part I, Section 2, of the Standard Claim Form, and shall document these findings on step #1 of the worksheet
- (a) If the claimant answered "yes" to questions 2A, and 2B, and 2E, and 2F, and either 2C or 2D of the Standard Claim Form, the CWD shall proceed to step #2 of the worksheet.
- (b) If the claimant answered "no" to questions 2A, or 2B, or 2E, or 2F, or both 2C and 2D, the CWD shall issue a denial Notice of Action explaining that the claimed recipient is not a WRO class member.
- .513 The CWD shall determine if the claimed recipient applied for or was denied IHSS during the retroactive claim period by reviewing the claimant's response on Part I, Section 2, question 2G, of the Standard Claim Form, and shall document this finding on step #2 of the worksheet.
- (a) If the claimant answered "yes" to either part of question 2G of the Standard Claim Form, the CWD shall proceed to step #3 of the worksheet.
- (b) If the claimant answered "no" to both parts of question 2G of the Standard Claim Form, the CWD shall issue a denial Notice of Action.
- (c) If the claimant answered "unknown" to either part of question 2G, the CWD shall attempt to locate the case record, or record of denial. If neither can be located, the CWD shall send a Supplemental Claim Form to the claimant.
- .514 The CWD shall determine if there is any record of an IHSS approval or denial and shall document this finding on step #3 of the worksheet.

- (a) If there is a record of approval or denial the CWD shall:
  - (1) proceed to step #4 of the worksheet if there is a record of approval for IHSS.
  - (2) proceed to step #8 of the worksheet if there is a record of denial for IHSS.
- (b) If there is no IHSS case record, the CWD shall send the claimant a Supplemental Claim Form.

.52 In determining eligibility for those claims in which the CWD has verified by case record that the claimed recipient of protective supervision and/or medical accompaniment services was authorized IHSS during the month(s) claimed, the CWD shall do the following, using the Retroactive Payment Eligibility Determination Worksheet, Part I, steps #4 through #7:

.521 Determine whether the case record indicates that protective supervision and/or medical accompaniment services were denied during the month(s) claimed for a reason other than because a spouse was providing the service, and check the appropriate response on step #4 of the worksheet.

- (a) If, for any month(s) claimed, the case record indicates that the denial was based on a reason other than the provision of protective supervision and/or medical accompaniment by the spouse, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the information which indicates the reason for denial of protective supervision. The claimant shall have 45 days from the date of the Notice of Action to provide additional information if available. The CWD shall process the claim for any remaining month(s) of eligibility, pending receipt of a response from the claimant.

.522 Determine whether any information exists outside the case record which indicates that protective supervision and/or medical accompaniment services were denied during the month(s) claimed for any reason other than those services were provided by the spouse, and check the appropriate response on step #5 of the worksheet. Information outside the case record may consist of, but not be limited to, the CWD's knowledge of the IHSS recipient's placement in a state hospital or other type of out-of-home care during the month(s) claimed.

- (a) If, for any month(s) claimed, information exists outside the case record, as described in Section 50-061.522, the CWD shall document the reason on the provided space on the worksheet, issue a Notice of Action for Adverse Information, and attach a copy of the information which indicates the reason for denial of protective supervision and/or medical accompaniment. The claimant shall have 45



days from the date of the Notice of Action to provide additional information if available. The CWD shall process the claim for any remaining month(s) of eligibility, pending the receipt of a response from the claimant.

- .523 Determine from the case record whether the IHSS recipient was receiving the statutory maximum payment, as described in Section 50-061.58, during any eligible month(s) claimed. Check the appropriate response on step #6 of the worksheet.
- (a) For any eligible month(s) claimed in which the IHSS recipient was receiving the statutory maximum payment, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the relevant information from the case record. The claimant shall have 45 days from the date of the Notice of Action to provide additional information regarding their level of authorized hours, if available.
  - (b) The CWD shall proceed to Section 50-061.54 and determine if there are any remaining month(s) in which the case was not authorized the statutory maximum.
- .524 Determine from the case record whether the claimed IHSS recipient was severely impaired (SI) or nonseverely impaired (NSI), and check the appropriate response on step #7 of the worksheet.
- .53 In determining eligibility for those claims in which the claimed recipient of protective supervision and/or medical accompaniment was denied IHSS during the month(s) claimed, the CWD shall complete step #8 of the Retroactive Payment Eligibility Determination Worksheet, locate the record of denial, and follow the procedures in Sections 50-061.521 and .522. The CWD shall proceed to Section 50-061.55 for instructions to complete the calculation of net payments on WRO claims in which an IHSS case had been denied and the WRO claimant is determined eligible for payments.
- .531 If the CWD is unable to determine from the record the reason for denial of IHSS during either the entire or partial period claimed, the CWD shall issue a Notice of Action and a Supplemental Claim Form to the claimant to establish whether the claimed recipient of protective supervision and/or medical accompaniment would have met the income/resource eligibility requirements for IHSS. The claimant shall have 45 days from the date of the Notice of Action to complete the Supplemental Claim Form and return it to the CWD, or the claim shall be denied.
- .532 Upon the CWD's receipt of the completed Supplemental Claim Form, for denied IHSS cases, the CWD shall check the appropriate responses on Part I, steps #9 through #11, of the worksheet. The CWD shall proceed to Section 50-061.55 if:
- (a) The claimant's responses on Part III, Sections 2 and 3, of the form indicate that the IHSS income/resource eligibility requirements would have been met during the period claimed.

- (b) If the claimant's response on Part III, Sections 2 and 3, of the Form indicate that the IHSS income/resource eligibility requirements would not have been met during the period claimed, the CWD shall deny the claim for those period(s) of ineligibility, document the reason for denial, and then proceed to Section 50-061.55 for any remaining period(s) of eligibility.
- (c) If the claimant's responses on Part III, Sections 2 and 3, of the Form indicate that the IHSS income/resource eligibility requirements would have been met during the period claimed, but the CWD obtains information which contradicts that supplied by the claimant, the CWD shall issue a Notice of Action for Adverse Information and attach a copy of the contradictory information. The claimant shall have 45 days from the date of the Notice of Action to provide additional information if available.

.533 If the claimant fails to return the completed Supplemental Claim Form to the CWD within 45 days from the date of the Notice of Action, the CWD shall deny those months in which the IHSS eligibility could not be established. If there are any remaining months of potential eligibility, the CWD shall determine eligibility and shall proceed, as applicable, to Section 50-061.55.

.54 Calculating the Actual Retroactive Payments and Underpayments - IHSS Case Record For Period Being Claimed

.541 Parts II, III, and IV of the Standard Claim Form and information from the case record, if available, shall be utilized to calculate retroactive payments and underpayments due on the Retroactive Payment Eligibility Determination Worksheet and the Underpayment Eligibility Determination Worksheet. The CWD shall use the appropriate worksheet to calculate retroactive payments and underpayments if the claimant is found eligible.

.542 Part II, Section A of the appropriate worksheet shall be utilized to record hours of protective supervision and/or medical accompaniment hours claimed, adjusted medical accompaniment hours as determined by the CWD, and total adjusted hours claimed.

- (a) Total protective supervision hours, if claimed, shall be entered in the first column of Part II, Section A, of the appropriate worksheet, for each month claimed.
- (b) Medical accompaniment hours claimed, if the claimant is determined eligible to be paid for medical accompaniment upon review of Part IV of the Standard Claim Form by the CWD, shall be entered in the second column of Part II, Section A, of the appropriate worksheet, for each month claimed.

- (c) Medical accompaniment hours claimed shall be adjusted by the CWD when the monthly amount of medical accompaniment hours claimed are more than eight hours per month, and are not supported by information submitted on Part IV of the Standard Claim Form or other information submitted by the claimant.
- (d) The CWD shall review all information submitted by the claimant in response to the Notice of Action for Adverse Information regarding claims for medical accompaniment hours which exceed eight hours per month. The CWD may use the medical accompaniment regulations contained in MPP Section 30-757.15, to determine the correct assessment for this service if the claimant is determined eligible for retroactive payments for this service. The CWD shall enter the adjusted figure for medical accompaniment hours claimed in the third column of Part II, Section A, of the appropriate worksheet.
- (e) The CWD shall enter total medical accompaniment hours, after adjustment if applicable, for each month claimed, in the fourth column of Part II, Section A, of the appropriate worksheet.

.543 For each claim in which IHSS eligibility during the applicable retroactive payment and/or underpayment periods has been established by the findings in the case record, the CWD shall use Part II, Section B, of the appropriate worksheet to calculate and document the payments due for each month as follows:

- (a) A determination of whether the claimant is "class eligible," as provided on Part I, step #2, shall be entered for each eligible month in Column 2.
- (b) The number of hours claimed as entered in the first and fourth columns of Part II, Section A, shall be entered in the appropriate space in Column 3.
- (c) The dollar amount claimed, which shall be determined by multiplying the number of hours claimed by the CWD's lowest individual provider hourly wage rate during the period claimed, shall be calculated by CMIPS in Column 4.
- (d) The amount of payment the IHSS recipient was originally authorized during the applicable retroactive payment and/or underpayment period shall be entered by the CWD, from the case record, in Column 5.
- (e) The applicable statutory maximum as specified in Section 50-061.58 shall be entered by CMIPS in Column 6.

- (1) If the case record indicates that the IHSS recipient was severely impaired, CMIPS shall calculate payments using the applicable severely impaired maximums. If the case record indicates that the IHSS recipient was nonseverely impaired, CMIPS shall calculate payments using the applicable nonseverely impaired maximums. The CWD shall enter the appropriate impairment level in Column 7.
  - (f) The applicable statutory maximum, as specified in Section 50-061.58 minus the amount originally authorized, as entered in Column 5, shall be calculated by CMIPS in Column 8.
  - (g) Total retroactive payments and/or underpayments due shall be calculated by CMIPS in Column 9.
    - (1) For those claims in which it has been established from the case record that the person who is claimed to have received protective supervision services was an IHSS recipient, the total retroactive payments and/or underpayments due shall be the lesser of the following:
      - (A) The difference between the applicable statutory maximum, as specified in Section 50-061.58 and the amount originally authorized, as entered in Column 5, or
      - (B) The amount claimed, as entered in Column 4.
    - (2) Claimants entitled to retroactive payments shall also be entitled to prejudgment interest.
      - (A) CMIPS shall calculate the amount of prejudgment interest due based on the amount of retroactive payments present in Column 9.
    - (3) Underpayments due shall not be subject to prejudgment interest.
- .544 After completion of calculations for retroactive payments and/or underpayments, the CWD claim processor and his/her immediate supervisor shall sign and date the appropriate worksheet at the space provided.
- .55 Calculating the Actual Retroactive Payments and/or Underpayments -Denied and No Record Cases
- .551 Parts II, III, and IV of the Standard Claim Form, and the case record and the Supplemental Claim Form, if used, shall be utilized to calculate retroactive payments and underpayments due on the Retroactive Payment Eligibility Determination Worksheet and the Underpayment Eligibility Determination Worksheet. The CWD shall use the appropriate worksheet to calculate retroactive payments and underpayments if the claimant is found eligible.

- .552 Part II, Section A, of the appropriate worksheet shall be utilized to record hours of protective supervision and/or medical accompaniment hours claimed, adjusted medical accompaniment hours as determined by the CWD, and total adjusted hours claimed, as described in Section 50-061.542(a) through (e).
- .553 For each claim in which the CWD has either located a record of IHSS denial or the CWD has been unable to locate a case record and eligibility for IHSS has been established by the responses on the Supplemental Claim Form, the CWD shall use Part II, Section B, of the appropriate worksheet to calculate and document the payments due for each month as follows:
- (a) A determination of whether the claimant is "class eligible," as indicated on Part I, step #2, shall be entered for each eligible month in Column 2.
  - (b) The number of hours claimed as entered in the first and fourth columns of Part II, Section A, shall be entered in the appropriate space in Column 3.
  - (c) The dollar amount claimed, which shall be determined by multiplying the number of hours claimed by the CWD's lowest individual provider hourly wage rate during the period claimed, shall be calculated by CMIPS in Column 4.
  - (d) The applicable nonseverely impaired statutory maximum, as specified in Section 50-061.58 shall be calculated by CMIPS in Column 6.
    - (1) The CWD shall use the applicable nonseverely impaired statutory maximum to calculate payments for all eligible cases in which: the CWD has no record of denial or the case record could not be located; eligibility has been established through the Supplemental Claim Form; and available evidence does not clearly show recipient need at the severely-impaired level. The CWD shall enter the appropriate impairment level in Column 7.
  - (e) The total retroactive payment and/or underpayments due, which shall be the amount claimed, as specified in Section 50-061.543(c) and entered in Column 4, provided the amount claimed for any month does not exceed the applicable nonseverely impaired statutory maximum during the month claimed, shall be calculated by CMIPS in Column 9.
    - (1) The total payments due shall be limited to the applicable nonseverely impaired statutory maximum amount during the month claimed.
    - (2) Claimants entitled to retroactive payments shall also be entitled to prejudgment interest.

- (3) Underpayments due shall not be subject to prejudgment interest.

- .554 After completion of calculations for retroactive payments and/or underpayments, the CWD claim processor and his/her immediate supervisor shall sign and date the appropriate worksheet at the space provided.
- .56 The CWD shall use the WRO v. McMahon Underpayment Eligibility Determination Worksheet to document all determinations for underpayment claims which were determined eligible for retroactive payments. Information from the Standard Claim Form, Retroactive Payment Eligibility Determination Worksheet, and Supplemental Claim Form and case record, where available, shall be used to complete the worksheet.
- .561 The CWD shall record the claimed provider's and recipient's names, social security numbers, and case number, at the top of Part I.
- .562 The CWD shall determine the claimant's eligibility for retroactive payments by reviewing the Retroactive Payment Eligibility Determination Worksheet, and shall document these findings on Part I, step #1 and #2, of the worksheet.
- (a) If the claimant is not eligible for retroactive payments under WRO, the CWD shall deny the claim for underpayments.
  - (b) If the claimant is eligible for retroactive payments under WRO, the CWD shall determine if the claimant is eligible for retroactive payments through the end of the retroactive period, September 30, 1984.
    - (1) If the claimant is not eligible for retroactive payments through the end of the retroactive period, September 30, 1984, the CWD shall deny the claim for underpayments.
    - (2) If the claimant is eligible for retroactive payments through the end of the retroactive payment period of September 30, 1984, the CWD shall proceed to step #3 of the worksheet.
- .563 The CWD shall determine if there is an IHSS case record for the claim.
- (a) If there is no case record, CMIPS shall calculate underpayments using nonseverely impaired maximums.
  - (b) If there is a case record, CMIPS shall calculate underpayments at the appropriate maximums, subtracting payment amounts for previously authorized IHSS services.

- .57 Calculating the Actual Underpayments - Claims With and Without IHSS Case Records
- .571 The CWD shall use Section 50-061.54 for the calculation of underpayments for claims with an IHSS case record, and are otherwise eligible to receive underpayments.
- .572 The CWD shall use Section 50-061.55 to calculate underpayments for claims with no IHSS case record, and are otherwise eligible to receive underpayments.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015; and Sections 12300, 12304, 12304.5, Welfare and Institutions Code.

Adopt new Section 50-061.58 to read:

- .58 IHSS Statutory Maximum During Retroactive Payment and Underpayment shall be:

Effective Date	NSI	SI
7/1/83 --- 6/30/84	\$604	\$872
7/1/84 --- 6/30/85	\$638	\$921
7/1/85 --- 8/31/86	\$674	\$974

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015; and Sections 12300, 12304, Welfare and Institutions Code.



Adopt new Section 50-061.61 to read:

.6 General Provisions

.61 Share of Cost

.611 The CWD shall not consider any recipient share of cost when computing the amount of retroactive payments and/or underpayments due.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015.

Adopt new Section 50-061.62 to read:

.62 Prejudgment Interest

.621 Prejudgment interest for retroactive payments only shall be calculated at the following rate:

(a) Ten percent for the period July 1, 1983 through September 30, 1985.

.622 The interest shall be computed on the amount of the monthly payment up through the last day of the month following the month in which payment is authorized.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015.

Adopt new Section 50-061.63 to read:

.63 Notices of Action

.631 For each claim received for retroactive payments and underpayments, the CWD shall issue a final Notice of Action. The Notice of Action shall contain the following information:

- (a) The month(s) determined eligible and/or ineligible for retroactive payments and/or underpayments. The reason(s) for any months determined ineligible shall be clearly stated;
- (b) The amount of retroactive payments due for each month, which shall be shown with and without interest;
- (c) The amount of retroactive payments and interest due for each year, if payments are claimed for more than one year;
- (d) The total retroactive payments due and the total amount of interest due;
- (e) The combined amount of retroactive payments and interest due;
- (f) The amount of underpayments due for each month, for each year if payments are claimed for more than one year, and the total underpayments due;
- (g) A statement regarding withholding taxes;
- (h) A statement regarding the claimant's right to a State Hearing on WRO v. McMahon determinations made by the CWD and information on how to request such hearings;
- (i) The final Notice of Action approving or denying WRO claims for medical accompaniment shall specify the exact amount of and reason for adjusted hours, if any, for the service of medical accompaniment.

.632 Each Notice of Action issued due to the claimant's failure to complete either the Standard Claim Form or Supplemental Claim Form in its entirety shall specify those sections of the form in need of completion.

.633 Each Notice of Action as a result of the CWD having contradictory information shall include a copy of the information and shall advise the claimant that he/she has 45 days from the date of the Notice of Action to provide additional information, if available, or the claim shall be denied.

- (a) If the claimant does not respond within the 45 days and provide information to rebut the CWD's contradictory information, the CWD shall issue a Final Notice of Action denying the claim for the months of ineligibility.
- .634 For each claim denied, the Notice of Action shall clearly state the reason(s) for each period claimed and denied.
- .635 For each approved claim in which the claimant is currently an IHSS recipient, the Notice of Action shall advise the claimant that the payment received as a result of his/her WRO v. McMahon claim may adversely affect his/her IHSS, SSI eligibility or other aid program eligibility and tax liability.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015.

Adopt new Section 50-061.64 to read:

.64 State Hearings

.641 The right to a state hearing on any WRO v. McMahon claim shall be granted only to WRO v. McMahon claimants or their authorized representatives.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015.

Adopt new Section 50-061.65 to read:

.65 Treatment of Lump Sum Payments in the IHSS Program

.651 It shall be the responsibility of the CWD to determine if the lump sum WRO v. McMahon retroactive payments and underpayments affect or does not affect the continued eligibility of all WRO v. McMahon claimants who are currently IHSS recipients.

.652 WRO v. McMahon payments shall be disregarded for IHSS financial eligibility determinations for the month of receipt and the following month. Any remaining balance from the WRO v. McMahon payments shall be counted as a resource in the second month following the month of receipt.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991, Case No. 531015.

Adopt new Sections 50-061.7 and .8 to read:

.7 Monitoring CWD Compliance

.71 County Statistical Reports

.711 Beginning February 1, 1993 and continuing until an eligibility determination has been made on each claim received, the SDSS shall compile a monthly report on retroactive payment claims and a separate monthly report on underpayment claims. The reports shall contain the following information:

- (a) The number of claims received;
- (b) The number of claims denied;
- (c) The number of claims approved;
- (d) The number of claims pending; and,
- (e) The amount of payments approved.

.72 Final Report

.721 SDSS shall obtain from the CMIPS a final report, by county, that includes the following:

- (a) The number of claimants paid;
- (b) The total amount of retroactive payments;
- (c) The number of underpayments paid; and,
- (d) The total amount of underpayments paid.

.73 Case Reviews

.731 Based on the quarterly reports, SDSS shall determine the fifteen (15) counties having the largest number of claims over the eight-month period.

.74 County Cooperation

.741 Each CWD shall cooperate with SDSS in providing information deemed necessary to monitor county compliance with the provisions of these regulations and the WRO v. McMahon final judgment.

.8 Appendix - WRO Forms

.81 The following forms are to be used to process WRO claims:

- (1) Poster - 2041 (Eng/Sp) (11/92)
- (2) Explanatory Flyer - 2040 (Eng/Sp) (11/92)
- (3) Standard Claim Form - 2007 (Eng/Sp) (11/92)
- (4) Supplemental Claim Form - 2006 (Eng/Sp) (11/92)
- (5) Underpayment Worksheet - 2008 (11/92)
- (6) Retroactive Worksheet - 2009 (11/92)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Amended Judgment regarding WRO v. McMahon dated July 19, 1991,  
Case No. 531015.



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 2-91)

AGENCY

California Department of Social Services

AGENCY FILE NUMBER (if any)

1192-40

OAL FILE  
NUMBERSNOTICE FILE NUMBER  
Z-93-0119-03

REGULATORY ACTION NUMBER

93-0601-03C

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

93-0125-01E

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

JUL 14 1993

NOTICE

REGULATIONS

Office of Administrative Law

FILED

In the office of the Secretary of State  
of the State of California

JUL 14 1993

At 3:29 O'clock P.M.

MARCO PONG EU, Secretary of State

By Cynthia Face  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE GAIN-Concurrent Enrollment		TITLE(S)		FIRST SECTION AFFECTED		2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER			
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER 93-715-2		PUBLICATION DATE 1-29-93	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S)	ADOPT	42-720.39; 42-730.6; 42-761.364; 42-772.58; 42-773.13; 42-774.32; and 42-786.25.
SECTIONS AFFECTED	AMEND	42-720.324(b); 42-761.364; 42-772.31, .52, .54, .581, and .583; 42-774.121 and .3; and 42-781.72; and 42-720.581.
	REPEAL	

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

May 13, 1993 through May 27, 1993

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify) \_\_\_\_\_

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

## 6. CONTACT PERSON

James Rhoads, Asst. Chief, Regulations Development Bureau

TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson, Director

DATE

JUN 1 1993

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

Corrected per 7/14/93 memo.

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

.3 County Plan Content (Continued)

.32 (Continued)

.324 (Continued)

(a) (Continued)

(b) The CWD shall make available all of its programs to each target group, but may give priorities for certain programs to individuals for whom these programs are reasonably expected to be the most effective. (See Section 42-730.7.)  
(Continued)

.39 The county plan for a county which offers concurrent enrollment as defined in Section 42-730.6 shall contain a description of the concurrent enrollment program which includes, but is not limited to, the activities which may be combined and choice of program flow option(s) pursuant to Section 42-772.582.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11320.6(b), 11320.8(c), 11321, 11321.2, 11321.2(a), 11322.2(b), 11322.4, 11323.15, 11330.5(d), 11330.8(c), 11330.9, and 13280, Welfare and Institutions Code; ~~AB 312, Chapter 1568, Statutes of 1990~~; 45 CFR 250.1; 45 CFR 250.12(c); and 45 CFR 250.31(a).

Amend Section 42-720.581:

NONLINKING FACTORS OF PUBLIC ASSISTANCE ELIGIBILITY		
42-720 (Cont.)	GREATER AVENUES FOR INDEPENDENCE	Regulations

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

- (a) Caseload estimates;
- (b) The adequacy of the participant, labor market, and child care needs assessments;
- (c) The number of services proposed based on the participant, labor market, and child care needs assessments;
- (d) The establishment of relationships to facilitate contracting and to ensure coordination and provision of services; and
- (e) The adequacy of the organizational structure(s) being proposed to implement the county plan.
- (f) The benefits of the proposed services to participants in relation to obtaining employment.

.573 Whether the plan contains an identification of, and linkages or planned linkages to, education and supportive services and a description of the case management services available to custodial parents under the age of 18, as specified in Section 42-720.325(c).

.58 A plan will be approved only if it provides an adequate range of services.

.581 For large counties, as defined by SDSS for AFDC cost control purposes, "an adequate range of services" means that the CWDs shall provide all of the job services, education, training, and supportive services described in Sections 42-730 and 42-750, except as provided in Section 42-730.61.

- (a) If two or more counties submit a joint plan, and the joint plan serves a caseload to or greater than a large county, the plan shall provide for all of the above services.

.582 Except for CWDs subject to Section 42-720.581, if all of the services are not provided for in the county plan, the CWD shall submit a justification as to why the services are not included.

- (a) A plan will not be approved which requires job search and preemployment preparation of participants to the exclusion of a range of services, and which does not specify the range of services, both existing and proposed to be offered participants.

.6 Concurrent Enrollment

notwithstanding Section 42-720.58

.61 Pursuant to its approved GAIN County Plan, the CWD may offer concurrent enrollment in basic education (as defined in Section 42-772.5) and in training and/or education services as defined in Sections 42-730.3, .52 and .53 which may be determined at assessment (see Section 42-773) to be necessary. The CWD may offer concurrent enrollment to any registrant determined during appraisal (see Section 42-761) to lack basic literacy and mathematics skills, a high school diploma or its equivalent, or English language skills. The participant may choose to participate in concurrent enrollment in accordance with the provisions of Section 42-772.58.

.62 Concurrent education and training activities may either be separate components provided by one or more providers or combined into an integrated component provided by the same provider.

.7 (Continued)

.71 (Continued)

.72 (Continued)

.721 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11322.6(f), 11322.6(f)(2), 11322.8(h)(6), 11323, 11323.15, and 11330.7, Welfare and Institutions Code; ~~AB 312, Chapter 1568, Statutes of 1990~~; 45 CFR 250.60(c) and (d); and 45 CFR 250.62(b)(2).

Amend Section 42-761.364 to read:

42-761 GAIN REGISTRANT APPRAISAL (Continued)

42-761

.3 (Continued)

.36 (Continued)

.364 If the county offers concurrent enrollment as defined in Section 42-730.6, a registrant determined to need basic skills instruction, English language skills instruction, or a high school diploma or equivalent shall be informed during the appraisal of the right to ~~choose~~ request concurrent enrollment in basic education (as defined in Section 42-772.5) and training and/or education services as defined in Sections 42-730.3, .52 and .53.

(a) A participant may only be concurrently enrolled under the conditions set forth in Section 42-772.581.

(~~b~~) A participant who chooses concurrent enrollment shall be informed of all participation requirements prior to signing a participant contract.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11323.15, 11323.2(a), 11323.4(d)(1), 11323.6(d)(1), 11325, 11325.2(c)(7) and 11330.3, Welfare and Institutions Code; ~~AB 312, Chapter 1568, Statutes of 1990~~; 45 CFR 250.1; 45 CFR 250.41(a)(1)(i) and (b); 45 CFR 250.48(a) and 45 CFR 255.2(a); and 54 FR 42184, October 13, 1989.

Amend Sections 42-772.581 and .583 to read:

42-772 GAIN BASIC CONTRACT REQUIREMENTS (Continued)

42-772

.3 (Continued)

- .31 Referral to an assessment shall be delayed for individuals who meet the conditions in Sections 42-772.4 or .5, except as specified in Sections 42-772.45, .52, .53 and .58.

.4 (Continued)

.5 (Continued)

- .52 An individual may choose to concurrently participate, prior to assessment, in accordance with Sections 42-772.11, .22, or .31, whichever is appropriate.

.53 (Continued)

- .54 For participants who participate first or concurrently according to Sections 42-772.1 or .2, a referral to an assessment (Section 42-773) shall not be made until the education program has been completed, except as provided in Section 42-772.58. (Continued)

- .58 In accordance with the provisions of Section 42-730.6, a participant may be concurrently enrolled in basic education (as defined in Section 42-772.5) and training and/or education services (as defined in Sections 42-730.3, .52 and .53). A participant who requests such concurrent enrollment is not precluded from participation in accordance with Sections 42-772.52 and .53.

- .581 A participant may be concurrently enrolled in basic education (as defined in Section 42-772.5) and training and/or education services defined in Sections 42-730.3, .52 and .53 if:

- (a) The county offers concurrent enrollment as a program activity as defined in Section 42-730.6 and as specified in its approved county plan (see Section 42-720.39); and
- (b) The individual requested such concurrent enrollment as specified in Section 42-761.364. Assignment to concurrent enrollment shall be made only when agreed to by the participant; and
- (c) The county determines during assessment that concurrent enrollment is appropriate for the participant; and
- (d) It is feasible for appropriate activities to be concurrently scheduled.



.582 Counties may choose to offer one or both of the following concurrent enrollment program flow options:

(a) Following appraisal and enrollment in the needed basic education activity, the participant may be assigned to assessment and enrolled in training and/or education activities (as defined in Sections 42-730.3, .52, and .53) which are consistent with the employment plan (see Sections 42-773 and 42-774).

(b) Following appraisal, a participant may be assigned to assessment, followed by enrollment in the needed basic education activity and in training and/or education activities (as defined in Sections 42-730.3, .52, and .53) which are consistent with the employment plan (see Sections 42-773 and 42-774).

.583 The two-academic-year limitation for completion of a post-assessment education program (see Section 42-730.54) shall not apply to basic education activities undertaken by a participant in a concurrent enrollment program pursuant to Section 42-730.6.

The two-academic-year limitation also shall not apply to basic education for a participant who does not enter or does not remain in a concurrent enrollment program following assessment undertaken pursuant to Section 42-772.582.

.584 For purposes of cause determination, conciliation and sanction, basic education is the primary component. Counties shall ensure continued participation in basic education in the event participants fail or refuse to comply with program requirements without good cause. See Sections 42-781.72 and 42-786.25.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11310(b)(6)(B), (d) and (e), 11323.15, 11325.2(c)(5), (6) and (7), 11326.2(b), (c)(5)(D) and (E), 11330, 11330.1, 11330.2, 11330.4, 11330.5, 11330.6, 11330.8 and 11330.10, Welfare and Institutions Code; ~~AB 312, Chapter 1568, Statutes of 1990~~; and 45 CFR 250.1; 45 CFR 250.32(a)(1) and (3)(ii); 45 CFR 250.48 and .48(b); and 45 CFR 255.2(a) and (c).



.1 (Continued)

.13 Persons identified in Section 42-772.58.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11323.15, Welfare and Institutions Code.

.1 (Continued)

.12 (Continued)

.121 The job services and training and education services may consist of one or more of the program components described in Sections 42-730.2, .3, .5, and .6. (Continued)

.2 (Continued)

.3 Except as provided in Section 42-774.32, whenever a participant does not have good cause for failing to meet the criteria specified in Section 42-774.131 for successful completion of the assigned training or educational services agreed to in Sections 42-774.1 or .2, he/she shall be reassigned to a basic long-term PREP assignment as described in Section 42-730.32. The contract shall be amended to reflect the assignment to basic long-term PREP/ and the provision of supportive services.

.31 (Continued)

.32 Section 42-774.3 shall not apply to a participant in a concurrent enrollment program pursuant to Sections 42-730.6 and 42-772.58. Failure or refusal by such a participant to comply with program requirements in accordance with criteria specified in Section 42-774.131 shall be governed by the provisions of Sections 42-772.584, 42-781.72, and 42-786.25.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11323.15, and 11325.8(a), Welfare and Institutions Code and 45 CFR 250.60(d).

.7 (Continued)

- .72 The conciliation plan for an individual in a concurrent enrollment program (as defined in Section 42-730.6) shall, at a minimum, include continued participation in the needed basic education activity. (See Sections 42-772.584, 42-774.32, and 42-786.25.)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11323.15, 11327.4, 11327.4(b), 11327.4(e), 11327.4(d), 11327.4(i), 11327.5(c)(1), and 11330.10(c), Welfare and Institutions Code; ~~AB 312, Chapter 1568, Statutes of 1990~~; 45 CFR 250.34(a); and FSA-JOBS-90-3 (Federal Action Transmittal).

## .2 (Continued)

- .25 To cure a sanction for noncompliance with program requirements of a concurrent enrollment program (as defined in Section 42-730.6), the individual must, at a minimum, agree to participate in the needed basic education activity. (See Sections 42-772.584 and 42-781.72.)

## .26 (Continued)

## .261 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11323.15, 11327.4(j), 11327.5(b), (c)(1)(A) and (B), (2) and (3) and (d), Welfare and Institutions Code; ~~AB 312, Chapter 1568, Statutes of 1990~~; 45 CFR 250.34(c)(2) and (3); 45 CFR 255.2(h)(2); and 54 FR 42173, October 13, 1989.

STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW  
**EMERGENCY**  
**NOTICE PUBLICATION REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91)

(See instructions on reverse)

original  
For use by Secretary of State only

AGENCY California Department of Social Services			AGENCY FILE NUMBER (If any) 0293-05	
OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 93-0722-02E	PREVIOUS REGULATORY ACTION NUMBER
For use by Office of Administrative Law (OAL) only				
<div style="border: 1px solid black; padding: 10px; text-align: center;"><p>1993 ENDORSED 1:54</p><p><b>APPROVED FOR FILING AND PUBLICATION</b></p><p>AUG - 2 1993</p><p>Office of Administrative Law</p></div>				
NOTICE			REGULATIONS	

**FILED**  
In the office of the Secretary of State  
of the State of California  
AUG 02 1993  
At 4:21 O'clock *pm* M.  
MARCH FONG EU, Secretary of State  
By *Susan J. Ward*  
Deputy Secretary of State

**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Child Care Usage and Documentation		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

**1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S)** (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT Section 40-018, 42- <del>0</del> 1101 and 42-1102
SECTIONS AFFECTED	AMEND Section 44-113.217
	REPEAL

**2. TYPE OF FILING**

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

**3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE** (Cal. Code Regs. title 1, §§ 44 and 45)

**4. EFFECTIVE DATE OF REGULATORY CHANGES** (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☒ Effective other (Specify) August 1, 1993

**5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY**

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

**6. CONTACT PERSON**

Jim Rhoads, Assistant Chief, Regulations Development Bureau	TELEPHONE NUMBER 657-2586
---	------------------------------

7.

**I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Eloise Anderson*

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

DATE

JUL 22 1993



**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READoption**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt Section 40-018 to read:

CHAPTER 40-000 IMPLEMENTATION SCHEDULE

40-018     IMPLEMENTATION OF ASSEMBLY BILL (AB) 2184 (CHAPTER 1205,     40-018  
STATUTES OF 1991)

This regulatory action, which consists of adopting and amending the following sections, shall be effective August 2, 1993 in order to comply with AB 2184 (Chapter 1205, Statutes of 1991). AB 2184 added Section 11008.19 to the Welfare and Institutions Code, which requires the California Department of Social Services (CDSS) and the California Department of Education (CDE) to establish a system for documenting child care usage by Aid to Families with Dependent Children (AFDC) recipients in CDE's subsidized child care system. Adopt: Chapter 42-1100, Sections 42-1101 and 42-1102. Amend: Section 44-113.217.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Adopt Chapter 42-1100 and Sections 42-1101 and 42-1102 to read:

CHAPTER 42-1100 CHILD CARE USAGE AND DOCUMENTATION

42-1101 GENERAL STATEMENT

42-1101

HANDBOOK BEGINS HERE

- .1 AB 2184 (Chapter 1205, Statutes of 1991) requires the Department and the California Department of Education (CDE) to establish a system for documenting child care usage by Aid to Families with Dependent Children (AFDC) recipients in CDE's subsidized child care system. The purpose of documenting the child care usage of this population is to maximize the Federal Financial Participation (FFP) to which the state is entitled under Title IV-A of the Social Security Act.

HANDBOOK ENDS HERE

42-1102 ELIGIBILITY FOR TITLE IV-A CHILD CARE UNDER AB 2184

42-1102

- .1 The county and CDE contractor shall verify whether AFDC recipients and their children who receive child care services from CDE subsidized child care programs are eligible for Title IV-A child care.

- .11 An AFDC recipient and each of his/her children who receive child care services from a CDE subsidized child care program are eligible for Title IV-A child care if the recipient and child meet the following standards:

- .111 The AFDC recipient is:

- (a) A working recipient who is not receiving the dependent care disregard, as specified in Section 44-113.217, for his/her child receiving services through the CDE subsidized child care system; or,
- (b) A participant in an education and training program approved according to the criteria specified in the Miller vs. Healy court order; or,
- (c) A participant in the GAIN program, as specified in Chapter 42-700.

HANDBOOK BEGINS HERE

- (d) The Miller vs. Healy court order established criteria for approving non-GAIN education and training programs. The Court ordered that child care assistance is to be provided to recipients "who meet existing GAIN criteria for the approval of education and training activities. Such child



care shall be provided pursuant to existing GAIN criteria for approval of self-initiated programs and existing GAIN definitions for satisfactory progress and attendance requirements."

HANDBOOK ENDS HERE

.112 The recipient's child(ren) shall meet the condition(s) of one category in each of Sections 42-1102.112(a) and (b) below:

(a) The child:

- (1) Is in the recipient's AFDC assistance unit; or
- (2) Receives benefits under federal foster care; or
- (3) Receives benefits under Supplemental Security Income/State Supplementary Payment (SSI/SSP) program.

(b) The child:

- (1) Is under the age of 13; or
- (2) Meets the age requirements under the AFDC program, as specified in Chapter 42-100 and is physically or mentally incapable of caring for himself/herself based on:
  - (A) A written statement of a physician or a licensed or certified psychologist; or
  - (B) Receipt of SSI/SSP; or
- (3) Is under court supervision as specified in Welfare and Institutions Code Section 601 or 602 and meets the age requirement under the AFDC program, as specified in Chapter 42-100.

.2 The county and CDE contractor shall redetermine whether an AFDC recipient and his/her child are eligible for Title IV-A child care when the county and CDE contractor become aware of a possible change in the eligibility status of the recipient or child.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11008.19, Welfare and Institutions Code; 45 CFR 255.2(a) and 45 CFR 255.4; and Miller v. Healy, 768 F. Supp. 1331 (N.D. Cal 1991).

Amend Section 44-113.217 to read:

44-113 NET INCOME

44-113

.2 Earnings

.21 Computation of Net Nonexempt Earned Income for Aid to Families with Dependent Children (Continued)

.211 - .216 (Continued)

.217 For each employed recipient apply a disregard as determined below for the reasonable and necessary costs of obtaining child care for a child in the AU or care for an incapacitated individual in the AU when the county determines that adequate dependent care cannot be provided during his/her working hours by a person in the recipient's assistance unit.

(a) For each child or incapacitated individual the amount of the dependent care disregard is the least of:

(1) (Continued)

(2) (Continued)

(3) (Continued)

(b) When applying the dependent care disregard, the county shall verify the amount of the expenditure and that the care was actually provided. As part of the verification process, the recipient shall write on the CA 7 the amount of the expenditure and provide a signed receipt. If the county determines that a signed receipt is not available, other acceptable evidence may be used. Such evidence may include but is not limited to: statements received by the county welfare departments by phone from the care provider, cancelled checks, statements from neighbors or other persons with a reasonable knowledge that services were provided (i.e., they take their child to the same facility), or an affidavit from the recipient, separate from the CA 7, which includes an explanation as to why a receipt from the provider was not available.

(c) The county shall inform employed recipients at the time they become eligible for the dependent care disregard that they may receive either the dependent care disregard or child care services in the California Department of Education (CDE) subsidized child care system. The county shall provide the information needed by the recipient to contact a Resource and Referral (R and R) Program for assistance in obtaining information regarding services offered by the CDE subsidized child care system.

HANDBOOK BEGINS HERE

- (1) Resource and Referral Programs provide referrals to child care facilities as specified in Education Code Sections 8200 et. seq. and are defined in Education Code Section 8208(y).
- (2) Education Code Section 8208(y) states in part:
  - (A) "Resource and referral programs" mean programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care."

HANDBOOK ENDS HERE

- (3) If CDE subsidized child care is not available or the recipient chooses not to receive CDE subsidized child care for each of his/her children, the county shall apply the dependent care disregard as specified in Section 44-113.217(a) above.
- (d) The dependent care disregard shall not be allowed for any of the employed recipient's children who receive child care services through a CDE subsidized child care program and are determined to be eligible for Title IV-A child care pursuant to Section 42-1102.

HANDBOOK BEGINS HERE

- (1) Section 42-1102 requires the county and CDE contractor to determine whether AFDC recipients and their children who receive child care services from CDE subsidized child care programs are eligible for Title IV-A child care.

HANDBOOK ENDS HERE

- (e) If a recipient and child are not eligible for Title IV-A child care pursuant to Section 42-1102 and are receiving services in the CDE subsidized child care system, the county shall apply the dependent care disregard as specified in Section 44-113.217(a) above for any parent fee assessed pursuant to Title V, Division 19, Section 18108.

HANDBOOK BEGINS HERE

- (1) Title V, Division 19, Section 18108 specifies that CDE contractors shall assess parent fees according to a fee schedule prepared and issued by the CDE Child Development Division. A parent fee is a family's share of cost computed on a sliding scale based on the family's income adjusted for family size.

HANDBOOK ENDS HERE

.218 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, ~~and~~ 10554 and 11008.19, Welfare and Institutions Code; 45 CFR 233.10; 45 CFR 233.20(a)(3)(ii)(C) and (vi)(A); 45 CFR 233.20(a)(11); 45 CFR 255.3; and Darces v. Woods, 35 Cal. 3d 871.

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91)

AGENCY

California Department of Social Services

(See instructions on reverse)

AGENCY FILE NUMBER (if any)

0693-26

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

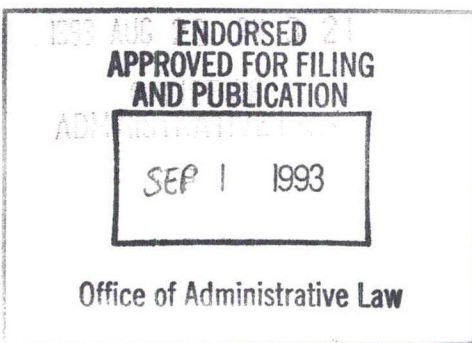
REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

93-0823-03E

For use by Office of Administrative Law (OAL) only



NOTICE

REGULATIONS

original  
For use by Secretary of State only**FILED**In the office of the Secretary of State  
of the State of California

SEP 01 1993

At 3:45 o'clock P.M.

MARION FONG EU, Secretary of State

Suzanne J. Ward  
Deputy Secretary of State**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Map Reductions and Elimination of 30 and 1/3 Disregards		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)**1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S)** (Including title 26, if toxics-related)

TITLE(S)	ADOPT
MPP	40-019
SECTIONS AFFECTED	AMEND 44-111 (HB) 44-115.311 (HB) 44-207.113 (HB) and .322, 44-315.311(HB) 44-402.11(HB) 80-301r.(1), 89-301 and 89-402.1 (HB)
	REPEAL
	44-315.351 (Handbook)

**2. TYPE OF FILING**

☐ Regular Rulemaking (Gov. Code, § 11346) 
 ☐ Resubmittal 
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) 
 ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

**3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE** (Cal. Code Regs. title 1, §§ 44 and 45)**4. EFFECTIVE DATE OF REGULATORY CHANGES** (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State 
 ☒ Effective on filing with Secretary of State 
 ☐ Effective other (Specify) \_\_\_\_\_

**5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY**

☒ Department of Finance (Form STD. 399) 
 ☐ Fair Political Practices Commission 
 ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

**6. CONTACT PERSON**

TELEPHONE NUMBER

Jim Rhoads, Assistant Bureau Chief, Regulations Develop. Bur. (916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE  
AUG 19 1993

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt Section 40-019 to read:

40-019    IMPLEMENTATION OF REGULATIONS PURSUANT TO SENATE BILL 35,  
CHAPTER 69, STATUTES OF 1993 FOR THE ASSISTANCE PAYMENTS  
DEMONSTRATION PROJECT

40-019

.1    General

The following amendments comply with the provisions of Senate Bill 35, Chapter 69, Statutes of 1993. This regulatory action consists of:

Elimination of the 4-month limit on receipt of the \$30 and 1/3 earned income disregards and elimination of the additional 8-month limit on receipt of the \$30 earned income disregard; and

Changes to reduce the Maximum Aid Payment (MAP) and the Reduced Income Supplemental Payment.

.11    Sections Modified

44-111            Payments Excluded or Exempt from Consideration As Income

44-115.3        Evaluation of Income In-Kind

44-207.113(a)    Income Eligibility

44-207.322       Financial Eligibility

44-315.3        Amount of Grant

44-402.1        Computation of a Reduced Income Supplemental Payment

80-301r.(1)(A)   Definition of "Recipient"

89-301.1        Elimination of Time Limitations for 30 and 1/3 Earned Income Disregards

89-402.1        MAP Amount

.2    Effective Date

As specified in Sections 40-019.21 and .22 below, all regulatory action herein implementing the provisions of Senate Bill 35, Chapter 69, Statutes of 1993, shall be effective September 1, 1993.

.21    \$30 and 1/3 Earned Income Disregards

This provision is effective with all earned income received on or after September 1, 1993.

.22    MAP Reduction

This provision is effective for payment months beginning September 1993.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11255 and 11450.015, Welfare and Institutions Code; and Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992.



Modify Handbook Section 44-111 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION  
AS INCOME

44-111

HANDBOOK BEGINS HERE

See Section 89-301.1 for elimination of the time limitations for the 30 and 1/3 earned income disregards as specified in this section for those recipients subject to the Assistance Payments Demonstration Project specified in Division 89.

HANDBOOK ENDS HERE

.1 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, ~~and~~ 11008.15, and 11255, Welfare and Institutions Code; 42 USC Section 602(g)(1)(E)(i); Section 202(a), Public Law 100-485; 45 CFR 244.0(c); 45 CFR 233.20(a)(4)(ii); ~~and~~ 45 CFR 233.20(a)(11)(v)(C); and Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992.

Modify Handbook Section 44-115.311(a) to read:

44-115 EVALUATION OF INCOME IN-KIND (Continued)

44-115

.3 In-Kind Income Values

.31 (Continued)

.311 (Continued)

HANDBOOK BEGINS HERE

(a) (Continued)

NOTE:

The counties of Alameda, Los Angeles, San Bernardino, and San Joaquin are to use the in-kind income amounts that were in effect July 1, 1992 for control group cases (see Section 89-102.2).

HANDBOOK ENDS HERE

Authority Cited: Welfare and Institutions Code Sections 10553, 10554, 11450, and 11453, Welfare and Institutions Code.

Reference: Welfare and Institutions Code Sections 11450, 11450.015, 11452, and 11453, Welfare and Institutions Code; and Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992.

Modify Handbook Sections 44-207.113(a) and .3 (Introductory paragraph) to read:

44-207 INCOME ELIGIBILITY (Continued)

44-207

.1 (Continued)

.11 (Continued)

.113 (Continued)

HANDBOOK BEGINS HERE

(a) (Continued)

NOTE: The counties of Alameda, Los Angeles, San Bernardino, and San Joaquin are to use the 185% MBSAC amounts that were in effect July 1, 1992 for control group cases (see Section 89-102.2).

HANDBOOK ENDS HERE

.12 Determination of Income Source (Continued)

.3 Financial Eligibility (Continued)

.32 Net Nonexempt Income (Continued)

.322 For purposes of determining financial eligibility, the earned income exemption (\$30 and 1/3) shall be applied subject to the limitations of Section 44-111.23\* and only if the person who earned the income was eligible for and received an AFDC payment from any state during at least one of the immediately preceding four months and is currently included in the FBU.

HANDBOOK BEGINS HERE

\*See Section 89-301.1 for elimination of the 4-month time limit for the \$30 and 1/3 earned income disregards and elimination of the additional 8-month limit for the \$30 earned income disregard. This will apply to those recipients who are subject to the Assistance Payments Demonstration Project as specified in Division 89.

HANDBOOK ENDS HERE

(a) (Continued)

11450 and 11453  
per agency  
Dmcl  
8-31-93

Authority Cited: Sections 10553, ~~and~~ 10554, <sup>11450 and 11453</sup> Welfare and Institutions Code.

Reference: Sections 10553, 10554, ~~and~~ 11017, and 11255, Welfare and Institutions Code; 45 CFR 233.20(a)(2)(xiii) and (3)(vi)(B) and (xiv)/; and Darces v. Woods, 35 Cal. 3d 871; Rutan v. McMahon, Case No. 612542-L (Alameda Superior Court) February 19, 1988; Letter from Department of Health and Human Services (DHSS), December 5, 1990; ~~and~~ Johnson v. Carlson Stipulated Judgement; and Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992.

Modify Handbook Sections 44-315.311 and .35 to read:

44-315 AMOUNT OF AID (Continued)

44-315

.3 Amount of Grant (Continued)

.31 MBSAC (Continued)

HANDBOOK BEGINS HERE

.311 MBSAC and  
MAP Levels

(a)

Effective ~~July~~ September 1, 1993, the MBSAC and MAP levels established in Welfare and Institutions Code Sections 11450 and 11452 are:

Size of AU	MBSAC	MAP
1	\$ 351	\$ 299
2	576	490
3	715	607
4	848	723
5	968	824
6	1,088	926
7	1,195	1,017
8	1,302	1,108
9	1,411	1,197
10 or more	1,533	1,286

For MBSAC add fourteen dollars (\$14) for each additional needy person.

(b) NOTE:

Below are the MBSAC and MAP amounts for recipients designated as APDP control group participants in the counties of Alameda, Los Angeles, San Bernardino, and San Joaquin (see Section 89-012.2).

<u>Size of AU</u>	<u>MBSAC</u>	<u>MAP</u>
<u>1</u>	<u>\$ 345</u>	<u>\$ 326</u>
<u>2</u>	<u>567</u>	<u>535</u>
<u>3</u>	<u>703</u>	<u>663</u>
<u>4</u>	<u>834</u>	<u>788</u>
<u>5</u>	<u>952</u>	<u>899</u>
<u>6</u>	<u>1,070</u>	<u>1,010</u>
<u>7</u>	<u>1,175</u>	<u>1,109</u>
<u>8</u>	<u>1,281</u>	<u>1,209</u>
<u>9</u>	<u>1,388</u>	<u>1,309</u>
<u>10 or more*</u>	<u>1,508</u>	<u>1,403</u>

\* For MBSAC add fourteen dollars (\$14) for each additional needy person.

HANDBOOK ENDS HERE

.32 Add Special  
Need Payment (Continued)

.35 MAP (Continued)

HANDBOOK BEGINS HERE

1351

See Section 891402 for MAP determinations for recipients-subject to the Assistance Payments Demonstration Project as specified in Division 891

HANDBOOK ENDS HERE

.36 Add Special Need  
Payments (Continued)

Authority Cited: Sections 10553, 10554, 11209, <sup>11450</sup> ~~and~~ 11450(g), <sup>and 11453</sup> Welfare and Institutions Code.

Reference: Sections 11017, 11450, 11450.01, 11450.015, 11450.03, 11452, and 11453, Welfare and Institutions Code; and Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992.

per  
agency  
JMC  
8-31-93

Renumber Handbook in Section 44-402.1 to Section 44-402.11 and current Section 44-402.11 to .12 and modify Handbook Section 44-402.11 to read:

44-402 COMPUTATION OF A REDUCED INCOME SUPPLEMENTAL PAYMENT

44-402

.1 (Continued)

.11

HANDBOOK BEGINS HERE

80% of MAP Level:  
Effective ~~December~~ September 1, 1992

Size of AU	80% of Maximum Aid Payment
1	\$ <u>239</u>
2	<u>392</u>
3	<u>485</u>
4	<u>578</u>
5	<u>659</u>
6	<u>740</u>
7	<u>813</u>
8	<u>886</u>
9	<u>957</u>
10 or more	<u>1,028</u>

NOTE: The counties of Alameda, Los Angeles, San Bernardino, and San Joaquin are to use the 80% of MAP, amounts that were in effect July 1, 1992 for control group cases (see Section 89-102.2).

HANDBOOK ENDS HERE

.112 (Continued)

11450 and 11453

per agency  
Dmc  
8-31-93

Authority Cited: Sections 10553 ~~and~~ 10554, Welfare and Institutions Code.

Reference: Sections 11017, 11255, 11450, 11450.015, and 11450.2, Welfare and Institutions Code; and 45 CFR 237.27/ sections 11450 and 11450.2; and Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992.

Amend Section 80-301r.(1) to read:

80-301 DEFINITIONS (Continued)

80-301

r. (1) Recipient

"Recipient" means a person who is receiving AFDC.

(A)

A person becomes a "recipient" on the date the county signs authorization document(s) certifying that all eligibility requirements are met. (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: (As listed below:)

TERM	PREVIOUS CITE	REFERENCE
Aid to Families With Dependent Children (AFDC)	40-103.84	45 CFR 201.3 and Sections 10553 and 10554, Welfare and Institutions Code.
Aid to Families With Dependent Children - Foster Care (AFDC-FC)	40-103.843	Sections 10553, 10554, and 11400(a), Welfare and Institutions Code.
Aid to Families With Dependent Children - Family Group (AFDC-FG)	40-103.841	Section 11250, Welfare and Institutions Code.
Aid to Families With Dependent Children-Unemployed Parent (AFDC-U)	40-103.842	Section 11201, Welfare and Institutions Code.
Aid Payment	N/A	
Alternatively Sentenced Parent (ASP)	N/A	45 CFR 233.90(c)(1)(iii).
Applicant	40-103.5	45 CFR 206.10 and Sections 11023.5 and 11051 Welfare and Institutions Code.
Applicant Child	N/A	45 CFR 206.10 and Sections 10553 and 10554, Welfare and Institutions Code.



TERM	PREVIOUS CITE	REFERENCE
Assistance Unit	N/A	45 CFR 233.90, 42 USCA 602(a)(38), and SSA-AT-86-01.
Beginning Date of Aid	N/A	Section 11266, Welfare and Institutions Code.
Caretaker Relative	N/A	42 USCA 606(a), 45 CFR 233.90(c)(1)(v), and Section 11203, Welfare and Institutions Code.
Child	N/A	45 CFR 233.90(c)(1)(i).
Collect	N/A	
County	40-103.7	Section 10058, Welfare and Institutions Code.
Date of Application	N/A	45 CFR 206.10(b)(3).
Eligible Child	44-203.11	45 CFR 233.90(c)(1)(i) and Section 11203, Welfare and Institutions Code.
Essential Person (EP)	N/A	45 CFR 233.20(a)(2)(vi) and 45 CFR 237.50(c).
Filing Unit	N/A	45 CFR 206.10(a)(1)(vii).
GAIN	N/A	45 CFR 255 and Section 11320, Welfare and Institutions Code.
GED	N/A	Sections 10553 and 10554, Welfare and Institutions Code.
Grant Adjust	N/A	
Half-Sibling	N/A	45 CFR 206.10(a)(1)(vii) and 45 CFR 233.90(c)(1)(v).
Immediate Need Payment	N/A	Section 11266, Welfare and Institutions Code.
Mandatory Inclusion	N/A	45 CFR 226.10(a)(1)(viii), and Sections 10553 and 10554, Welfare and Institutions Code.
Medical Verification of Pregnancy	44-205.642	45 CFR 233.90(c)(2)(iv) and Section 11450, Welfare and Institutions Code.
Minor Parent	43-103.2 44-133.711	45 CFR 233.20(a)(3)(xviii) and Section 11008.14, Welfare and Institutions Code.
Optional Persons	N/A	45 CFR 233.20(a)(2)(vi) and 45 CFR 237.50(c).

TERM	PREVIOUS CITE	REFERENCE
Otherwise Eligible	N/A	Sections 10553, 10554, and 10604, Welfare and Institutions Code.
Parent	41-403.1	45 CFR 237.50(b)(3)(ii) and Section 11203, Welfare and Institutions Code.
Pregnant Woman	44-205.6	45 CFR 233.90(c)(2)(iv) and Section 11008.14, Welfare and Institutions Code.
Public Hospital	42-503.51	45 CFR 233.60(b)(3) and (5) and Section 11269, Welfare and Institutions Code.
Recipient	40-189.11	45 CFR 233.10(a)(1) and Section 11450, Welfare and Institutions Code.
Recover	N/A	
Sanction	N/A	45 CFR 224.51 and 45 CFR 232.12(d)(1).
Second Parent	N/A	Sections 10553 and 10554, Welfare and Institutions Code.
Senior Parent	N/A	45 CFR 233.20 and Sections 10553 and 10554, Welfare and Institutions Code.
Sibling	N/A	Sections 10553 and 10554, Welfare and Institutions Code.
Sponsored Alien	43-119.11	45 CFR 233.20(a)(3)(xv) and 45 CFR 233.51 and Section 11008.13, Welfare and Institutions Code.
State Department of Social Services (SDSS)	N/A	Section 10054, Welfare and Institutions Code.
Statement of Facts	N/A	Sections 10553, 10554, and 11054, Welfare and Institutions Code.
State-only AFDC	N/A	Section 11450(b), Welfare and Institutions Code.
Stepparent	43-103.3	45 CFR 233.20(a)(3)(xiv) and Section 11008.14, Welfare and Institutions Code.
Strike	41-701.21	45 CFR 233.106 and Section 11250.4, Welfare and Institutions Code.
Striker	41-701.23	45 CFR 233.106 and Section 11250.4, Welfare and Institutions Code.
SSI/SSP Child	N/A	45 CFR 233.90.

Amend Sections 89-301 (Title) and 89-301.1 to read:

89-300 WORK INCENTIVES

89-300

89-301 ELIMINATION OF TIME LIMITATIONS FOR 30 AND 1/3 EARNED INCOME  
DISREGARD AND ELIMINATION OF THE 100-HOUR LIMIT

89-301

.1 ~~Reserved~~  
30 and 1/3

The county shall not apply the time limitations  
specified in Sections 44-111.232(b) and .24.

.2 100-Hour Limit

(Continued)

Authority Cited: Sections 10553, 10554, 11201.5, 11209, and 11450(g), Welfare and Institutions Code.

Reference: Sections 11201.5, 11255, and 11450.015, Welfare and Institutions Code; and Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992.

Modify Handbook Section 89-402.1 to read:

89-400 AID PAYMENTS

89-400

89-402 MAXIMUM AID PAYMENT (MAP) LEVEL AND MAP RESTRICTION

89-402

HANDBOOK BEGINS HERE

.1 MAP Amount

*Effective December 1, 1992, the MAP level established in Welfare and Institutions Code Sections 11450(a)(1) and (2) is:*

Size of AV	MAP
1	\$ 107
2	304
3	624
4	743
5	847
6	932
7	1,043
8	1,139
9	1,230
10 or more	1,322

See Section 44-315.311(a) for the MAP amounts for recipients subject to the Assistance Payments Demonstration Project as specified in Section 89-100.

HANDBOOK ENDS HERE

.2 Reserved

.3 Reserved

.4 Relocation Family Grant (Continued)

Authority Cited: Sections 10553, 10554, 11209, and 11450(g), Welfare and Institutions Code.

Reference: Sections 11450.01, 11450.015, and 11450.03, Welfare and Institutions Code; Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992; and Memorandum of Decision and Order in Green v. Anderson, (Civ. S-92-2118) dated January 28, 1993.

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

## AGENCY

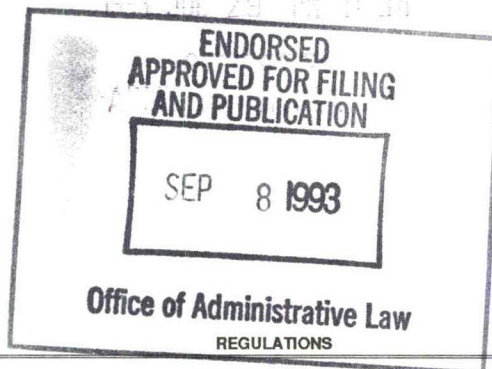
California Department of Social Services

*Original*  
(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	AGENCY FILE NUMBER (if any) RDB# 1092-38
		930729-028		

For use by Office of Administrative Law (OAL) only

FILED  
In this office of the Secretary of State  
of the State of California

SEP 08 1993

3:34 o'clock P.M.  
Cynthia J. Rice  
Ed., Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE AB3456 Implementation Regulations		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 93#142	PUBLICATION DATE 42-93

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) 22	ADOPT 35001 and 35156
SECTIONS AFFECTED	AMEND 35000, 35002, 35095.1, 35095.2, 35127.1, 35134, 35145, 35147, 35148, 35167, 35169 and 35223
	REPEAL

## 2. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only <input type="checkbox"/> Other (specify)			

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

<input checked="" type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> Effective other (Specify)
---	--	--

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

## 6. CONTACT PERSON

Jim Rhoads, Asst. Chief, Regulations Development Bureau

## TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

DATE

JUL 28 1993

TYPED NAME AND TITLE OF SIGNATORY  
ELOISE ANDERSON, DIRECTOR

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

## INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

### ALL FILINGS

Enter the agency name and agency file number, if any.

### NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

### REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

### RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

### EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

### NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

### CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

### EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 35000 to read:

35000        DEFINITIONS

35000

(a) (1) (Continued)

- 12Y YAD 67Y 19/90Y means the form entitled/ YInformation About the Birth Mother//
- 13Y YAD 67AY 16/91Y means the form entitled/ YInformation About the Birth Father//
- 14Y YAD 100Y 12/93Y means the form entitled/ YAuthorization for Release of Information//
- 15Y YAD 312Y 10/91Y means the form entitled/ YPsychosocial and Medical History of Child//
- 16Y YAD 312AY 12/93Y means the form entitled/ YTransmittal of Adoptee's Medical and Psychosocial Background and Family History//

HANDBOOK BEGINS HERE

AD forms are available through the Department's Forms Warehouse/

HANDBOOK ENDS HERE

(172) (Continued)

(183) (Continued)

(194) (Continued)

(105) (Continued)

(116) (Continued)

(127) (Continued)

(138) (Continued)

(149) (Continued)

Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 222.26(b), 224.50(h), 224.70(b), 226.11, and 226.35(b), Civil Code.

Reference: Sections 10800, 16000, 16115, 16118, 16119, 16120, 16120.1 and 16121, Welfare and Institutions Code; Sections 25, 62, 211, 220.20(a), 220.20(b), 220.20(c), 220.20(d), 220.20(e), 220.20(f), 220.20(g), 220.20(h), 220.20(i), 220.20(j), 220.20(k), 220.20(l), 220.20(m), 220.20(n), 220.20(o), 220.20(p), 220.20(q), 222.26(a), 224.70(a), 226.35(a), 229.30, 232, 239, 7001, 7002, 7003, 7004, and 7017, Civil Code; Section 1502, Health and Safety Code; Section 13290, Government Code; 8 USC 1101(b)(1)(F); 25 USC 1901, 1903(2), (3), (4), (5), (6), (8), (9), (11), and (12); 42 USC 673 and 675; Section 11105(a)(2), Penal Code; and 28 CFR Section 16.31; and 45 CFR 1356.41(i).

Adopt new Section 35001 to read:

35001      DEFINITIONS - FORMS

35001

- (a) (1) "AD 67" (9/90) means the form entitled, "Information About the Birth Mother."
- (2) "AD 67A" (6/91) means the form entitled, "Information About the Birth Father."
- (3) "AD 100" (2/93) means the form entitled, "Authorization for Release of Information."
- (4) "AD 501 ENG/SP" (12/91) means the form entitled, "Relinquishment (Birth Mother and/or Presumed Father)."
- (5) "AD 501A ENG/SP" (12/91) means the form entitled, "Relinquishment (Out of State)."
- (6) "AD 503 ENG/SP" (12/91) means the form entitled, "Relinquishment - Out of County (Birth Mother and/or Presumed Father)."
- (7) "AD 504" (12/91) means the form entitled, "Relinquishment - Out of State - in-Armed Forces."
- (8) "AD 512" (10/91) means the form entitled, "Psychosocial and Medical History of Child."
- (9) "AD 512A" (2/93) means the form entitled, "Transmittal of Adoptee's Medical and Psychosocial Background and Family History."
- (10) "AD 583 ENG/SP" (12/91) means the form entitled, "Relinquishment - Out of County (Presumed Father Denies He is the Birth Father)."
- (11) "AD 584 ENG/SP" (12/91) means the form entitled, "Relinquishment - Out of State (Presumed Father Denies He is the Birth Father)."
- (12) "AD 585 ENG/SP" (12/91) means the form entitled, "Relinquishment (Presumed Father Denies He is the Birth Father)."
- (13) "AD 586 ENG/SP" (4/92) means the form entitled, "Relinquishment - In or Out of County (Alleged Natural Father in California)."
- (14) "AD 588 ENG/SP" (1/92) means the form entitled, "Denial of Paternity by Alleged Natural Father - In or Out of California."
- (15) "AD 590 ENG/SP" (4/90) means the form entitled, "Waiver of Right to Further Notice of Adoption Planning (Alleged Natural Father In or Out of California)."
- (16) "AD 591 ENG/SP" (12/91) means the form entitled, "Relinquishment (Alleged Natural Father) Out of State or Country."



- (17) "AD 593" (12/91) means the form entitled, "Relinquishment (Alleged Natural Father) Outside of California in Armed Forces."
- (18) "AD 862" (12/91) means the form entitled, "Relinquishment of Indian Child by Alleged Natural Father - Out of State or Country."
- (19) "AD 863" (12/91) means the form entitled, "Relinquishment of Indian Child - Out of State."
- (20) "AD 864" (1/92) means the form entitled, "Relinquishment of Indian Child (Birth Mother and/or Presumed Father)."
- (21) "AD 865" (1/92) means the form entitled, "Relinquishment of Indian Child (Birth Mother and/or Presumed Father) Out of County."
- (22) "AD 866" (1/92) means the form entitled, "Relinquishment of Indian Child (Presumed Father Denies He is the Birth Father)."
- (23) "AD 867" (1/92) means the form entitled, "Relinquishment of Indian Child (Presumed Father Denies He is the Birth Father) Out of State."
- (24) "AD 868" (1/92) means the form entitled, "Relinquishment of Indian Child (Alleged Natural Father in California) In/Out of County."
- (25) "AD 873" (1/92) means the form entitled, "Relinquishment of Indian Child (Presumed Father Denies He is Birth Father) Out of County."
- (26) "AD 885" (1/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Mother or a Presumed Father Who has Legal Right to Physical Custody of the Child)."
- (27) "AD 885A" (5/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Mother or a Presumed Father Who Has Been Deprived of Physical Custody of the Child by Juvenile Court Order and Has Not Received Family Maintenance or Family Reunification Services)."
- (28) "AD 885B" (1/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Mother or a Presumed Father Who Has been Deprived of Physical Custody of the Child and has Received Family Maintenance and/or Family Reunification Services and Whose Child Has Been Referred by the Juvenile Court to the Permanent Placement Program with a Plan of Adoption)."
- (29) "AD 885C" (1/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Alleged Natural Father Who Relinquishes His Child)."
- (30) "AD 887" (1/93) means the form entitled, "Statement of Understanding - Independent Adoptions Program (Parent Who Gave Physical Custody of the Child to the Adoptive Parents)."

- (31) "AD 887A" (1/93) means the form entitled, "Statement of Understanding - Independent Adoptions Program (Parent Who Did Not Give Physical Custody of the Child to the Adoptive Parents)."
- (32) "AD 887B" (1/93) means the form entitled, "Statement of Understanding - Independent Adoptions Program (Alleged Natural Father)."
- (33) "AD 899" (1/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Mother or a Presumed Father Who Has Legal Right to Physical Custody of the Indian Child)."
- (34) "AD 899A" (1/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Mother or a Presumed Father Who Has Been Deprived of Physical Custody of the Child and Has Received Family Maintenance and/or Family Reunification Services and Whose Indian Child Has Been Referred by the Juvenile Court to the Permanent Placement Program with a Plan of Adoption)."
- (35) "AD 899B" (2/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Mother or a Presumed Father Who Has Been Deprived of Physical Custody of the Indian Child by Juvenile Court Order and Has Not Received Family Maintenance or Family Reunification Services)."
- (36) "AD 899C" (1/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Alleged Natural Father Who Relinquishes His Child and Whose Child is Subject to the Indian Child Welfare Act Through the Mother's Tribe)."
- (37) "AD 900" (1/93) means the form entitled, "Statement of Understanding - Independent Adoptions Program (Parent Who Gave Physical Custody of the Indian Child to the Adoptive Parents)."
- (38) "AD 900A" (1/93) means the form entitled, "Statement of Understanding - Independent Adoptions Program (Parent Who Did Not Give Physical Custody of the Indian Child to the Adoptive Parents)."
- (39) "AD 900B" (1/93) means the form entitled, "Statement of Understanding - Independent Adoptions Program (Alleged Natural Father of Indian Child)."
- (40) "AD 913" (3/91) means the form entitled, "Confirmation of Advice."
- (41) "AD 920 ENG/SP" (2/93) means the form entitled, "Relinquishment - In or Out of County (Alleged Natural Father In California) - Parent Identifying Adopting Parent(s)."
- (42) "AD 921 ENG/SP" (1/93) means the form entitled, "Relinquishment (Birth Mother and/or Presumed Father) - Parent Identifying Adopting Parent(s)."
- (43) "AD 922 ENG/SP" (1/93) means the form entitled, "Relinquishment Addendum for Parent Identifying Adopting Parent(s)."

HANDBOOK BEGINS HERE

AD forms are available through the Department's Forms Warehouse at the following address:

California Department of Social Services Warehouse  
Publications Unit  
6150 27th Street - P. O. Box 22429  
Sacramento, CA 95822-3799

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 222.10, 222.26, 224.62 and 224.70, Civil Code.

Renumber existing Section 35001 to 35002 to read:

350012      INITIALING THE RELINQUISHMENT OR CONSENT FORM (Continued)

350012

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and  
Section 1530, Health and Safety Code.

Reference: Sections 222.10 and 224.40, Civil Code.

Amend Sections 35095.1(b)(1)(O)2., (b)(1)(T), (b)(2)(E) and (b)(3)(H) to read:

35095.1 STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE CHILD IS NOT 35095.1  
SUBJECT TO THE ICWA (Continued)

(b) (Continued)

(1) (Continued)

(O) The agency cannot release any identifying information about the parent unless:

1. (Continued)

2. The adult adoptee/ ~~any living adoptive parent~~ and birth parent ~~all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact among both sign written consents to arrange contact between~~ these persons in accordance with Civil Code Section 229.50, or (Continued)

(P) through (S) (Continued)

(T) The Statement of Understanding for the parent who gave physical custody of the child not subject to the provisions of the ICWA is the AD 887 ~~12/90Y~~.

(2) (Continued)

(E) The Statement of Understanding for the legal parent who did not give physical custody of the child not subject to the provisions of the ICWA is the AD 887A ~~12/90Y~~.

(3) (Continued)

(H) The Statement of Understanding for the alleged natural father of a child not subject to the provisions of the ICWA is the AD 887B ~~12/90Y~~.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 197, 220.20(e), 220.20(m), 220.20(o), 221.10, 221.12, 221.20, 221.74, 221.76, 224.10, 224.36, 224.44, 224.61, 224.62, 224.64, 224.70, 224.73, 228.10, 229.20, 229.30, 229.40, 229.50, 229.60, 1798.24(r), 1798.24(s), 7001, 7002, 7003, 7004, 7006, 7017 and 7017.2, Civil Code; Section 621, Evidence Code; and Section 6408.5, Probate Code.

Amend Sections 35095.2(b)(1)(W)2., (b)(1)(DD), (b)(2)(E), and (b)(3)(I) to read:

35095.2 STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE CHILD IS  
SUBJECT TO THE ICWA (Continued)

35095.2

(b) (Continued)

(1) (Continued)

(W) The agency cannot release any identifying information about the parent unless:

1. (Continued)

2. The adult adoptee/ ~~any living adoptive parent~~ and birth parent ~~all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact~~ among both sign written consents to arrange contact between these persons in accordance with Civil Code Section 229.50, or (Continued)

(X) through (CC) (Continued)

(DD) The Statement of Understanding for the parent who gave physical custody of the child subject to the provisions of the ICWA is the AD 900 ~~12/90~~.

(2) (Continued)

(E) The Statement of Understanding for the legal parent who did not give physical custody of the child subject to the provisions of the ICWA is the AD 900A ~~12/90~~.

(3) (Continued)

(I) The Statement of Understanding for the alleged natural father of a child subject to the provisions of the ICWA is the AD 900B ~~12/90~~.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 197, 220.20(e), 220.20(m), 220.20(o), 221.10, 221.12, 221.20, 221.74, 221.76, 221.80, 224.10, 224.36, 224.44, 224.61, 224.62, 224.64, 224.70, 224.73, 228.10, 229.20, 229.30, 229.40, 229.50, 229.60, 1798.24(r), 1798.24(s), 7001, 7002, 7003, 7004, 7017 and 7017.2, Civil Code; Section 621, Evidence Code; Section 6408.5, Probate Code; and 25 USC Sections 1901, 1902, 1903, 1911, 1912, 1913, 1914, 1915, 1916, and 1917.

Amend Section 35127.1 to read:

35127.1    ADVICE TO BIRTH PARENTS-INDEPENDENT ADOPTION PREPLACEMENT    35127.1  
PROGRAM

(a) (Continued)

(b) (Continued)

(c) (Continued)

(1) The Independent Adoptions Statements of Understanding are:

AD 887	For Parent Who Gave Physical Custody of the Child to Adoptive Parents <del>11/88</del>
AD 887A	For Legal Parent Who Did Not Give Physical Custody of the Child to the Adoptive Parents <del>11/88</del>
AD 887B	For Alleged Natural Father <del>11/88</del>
AD 900	For the Parent Who Gave Physical Custody of the Indian Child to the Adoptive Parents <del>11/88</del>
AD 900A	For Legal Parent Who Did Not Give Physical Custody of the Child to the Adoptive Parents <del>11/88</del>
AD 900B	For Alleged Natural Father of Indian Child <del>11/88</del>

(d) through (f) (Continued)

(g) The agency shall document the provision of the advice and, if desired by the birth parent, counseling on the "Confirmation of Advice" (AD 913 ~~11/88~~) form. At the request of the person advised, the agency shall provide this completed form, a copy of the summary of the family assessment given to the person advised, the background information about the parent and documentation of the inquiry about the identity of the birth father to the Department or county welfare department investigating a proposed adoption.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 224.50(h), Civil Code.

Reference: Sections 224.50 and 7017, Civil Code.

Amend Section 35134(a)(8) to read:

35134 CATEGORY OF PARENT AND COUNSELING SERVICES (Continued)

35134

(a) (Continued)

(8) Ensure that the parent is informed of and has indicated that ~~he/she~~ he or she understands:

(A) ~~The meaning and legal effects of relinquishment, and his/her~~

(B) His or her legal rights in relation to the relinquishment process, including his/her his or her option either:

1. To sign a relinquishment document that does not identify the adopting parents or

2. To sign a relinquishment document that identifies the adopting parents and that gives the parent signing the relinquishment document the right to rescind the relinquishment if the adoption is not completed,

(C) His or her options other than relinquishment as set forth in Sections 35147(b)(1) and 35148(b)(1), and

(D) ~~p~~Procedures for revocation and rescission of the relinquishment as set forth in Subchapter 5, Article 3.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 222.10, 222.15, 222.20, 222.26, 229.30, 1798.24(r), (s) and 7017, Civil Code; Section 10850(b), Welfare and Institutions Code; and Section 10439, Health and Safety Code.



Amend Section 35134(b) (7) to read:

35134 CATEGORY OF PARENT AND COUNSELING SERVICES (Continued)

35134

(b) (Continued)

(7) Ensure that the parent is informed of and has indicated that ~~he/she~~ he or she understands:

(A) ~~The~~ meaning and legal effects of relinquishment, ~~and his/her~~

(B) His or her legal rights in relation to the relinquishment process, including ~~his/her~~ his or her option either:

1. To sign a relinquishment document that does not identify the adopting parents or

2. To sign a relinquishment document that identifies the adopting parents and that gives the parent signing the relinquishment document the right to rescind the relinquishment if the adoption is not completed,

(C) His or her options other than relinquishment as set forth in Sections 35147(b) (1) and 35148(b) (1), and

(D) ~~Procedures~~ for revocation and rescission of the relinquishment as set forth in Subchapter 5, Article 3.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 222.10, 222.15, 222.20, 222.26, 229.30, 1798.24(r), (s) and 7017, Civil Code; Section 10850(b), Welfare and Institutions Code; and Section 10439, Health and Safety Code.

Amend Section 35134(c)(3) to read:

35134 CATEGORY OF PARENT AND COUNSELING SERVICES (Continued)

35134

(c) (Continued)

(3) Ensure that the parent is informed of and has indicated that ~~he/she~~ he or she understands:

(A) ~~The~~ meaning and legal effects of relinquishment, ~~and his/her~~

(B) His or her legal rights in relation to the relinquishment process, including ~~his/her~~ his or her option either:

1. To sign a relinquishment document that does not identify the adopting parents or

2. To sign a relinquishment document that identifies the adopting parents and that gives the parent signing the relinquishment document the right to rescind the relinquishment if the adoption is not completed,

(C) His or her options other than relinquishment as set forth in Sections 35147(b)(1) and 35148(b)(1), and

(D) ~~Procedures~~ for revocation and rescission of the relinquishment as set forth in Subchapter 5, Article 3.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 222.10, 222.15, 222.20, 222.26, 229.30, 1798.24(r), (s) and 7017, Civil Code; Section 10850(b), Welfare and Institutions Code; and Section 10439, Health and Safety Code.

Amend Section 35134(e) (5) to read:

35134      CATEGORY OF PARENT AND COUNSELING SERVICES (Continued)      35134

(e) (Continued)

- (5) Discuss the meaning of relinquishment and its legal effects as set forth in Sections 35147(b)(4) and 35148(b)(4) and procedures for revocation and rescission of the relinquishment as set forth at Subchapter 5, Article 3.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 222.10, 222.15, 222.20, 222.26, 229.30, 1798.24(r), (s) and 7017, Civil Code; Section 10850(b), Welfare and Institutions Code; and Section 10439, Health and Safety Code.

Amend Section 35145(a); repeal Sections 35145(b)(1) through (38) and adopt new Sections 35145(b), (c) and (d) to read:

35145 IDENTIFYING INFORMATION ON THE RELINQUISHMENT DOCUMENT

35145

(a) The relinquishment document shall provide for identification of:

(1) The child's:

(A) Name as identified on the birth certificate

(2) (Continued)

(3) (Continued)

(4) The name or names of the person or persons with whom the relinquishing parent intends that placement of the child for adoption be made by the agency, if the relinquishing parent chooses to name such person or persons.

(A) If the relinquishing document does not provide for identification of the person or persons, the name or names shall be stated on the AD 922 signed by the relinquishing parent and attached to the relinquishment document, in which case neither page alone shall constitute a valid relinquishment.

1. A relinquishment document to which the AD 922 is attached shall include substantially the following statement: "This relinquishment document includes a second page that names the person or persons with whom I/we intend that the child be placed for adoption."

~~(b) The relinquishment document is:~~

~~11) AD301 (8+82) Natural Mother and/or Presumed Father~~

~~12) CAS3 (2+82) Natural Mother and/or Presumed Father~~

~~13) AD301A (8+83) Natural Mother and/or Presumed Father/Out of State~~

~~14) CAS4 (2+82) Natural Mother and/or Presumed Father/Out of State~~

~~15) AD303 (2+82) Natural Mother and/or Presumed Father/Out of County~~

~~16) CAS3 (2+82) Natural Mother and/or Presumed Father/Out of County~~

~~17) AD304 (2+82) Natural Mother and/or Presumed Father/Out of State/Armed Forces~~

~~18) CAS3 (2+82) Natural Mother and/or Presumed Father/Out of State/Armed Forces~~

~~19) AD383 (2+82) Presumed Father Denies Paternity/Out of County~~

- 110) CAS7 12+82) Presumed Father Denies Paternity/Out of County
- 111) AD384 12+82) Presumed Father Denies Paternity/Out of State
- 112) CAS8 12+82) Presumed Father Denies Paternity/Out of State
- 113) AD385 12+88) Presumed Father Denies Paternity
- 114) CAS9 11+88) Presumed Father Denies Paternity
- 115) AD386 11+82) Alleged Natural Father/In California/In/Out of County
- 116) CAS841 13+82) Alleged Natural Father/In California/In/Out of County
- 117) AD388 17+78) Denial of Paternity by Alleged Natural Father/In/Out of State
- 118) AD390 17+88) Alleged Natural Father/Waiver of Right to Further Notice/In/Out of State
- 119) AD391 10+82) Alleged Natural Father/Out of State/County
- 120) CAS839 18+89) Alleged Natural Father/Out of State/County
- 121) AD393 12+82) Alleged Natural Father/Out of State/Armed Forces
- 122) CAS840 18+89) Alleged Natural Father/Out of State/Armed Forces
- 123) AD382 12+82) Alleged Natural Father of Indian Child/Out of State/County
- 124) CAS863 12+82) Alleged Natural Father of Indian Child/Out of State/County
- 125) AD383 12+82) Natural Mother and/or Presumed Father of Indian Child/Out of State
- 126) CAS868 12+82) Natural Mother and/or Presumed Father of Indian Child/Out of State
- 127) AD384 12+82) Natural Mother and/or Presumed Father of Indian Child
- 128) CAS864 12+82) Natural Mother and/or Presumed Father of Indian Child
- 129) AD385 12+82) Natural Mother and/or Presumed Father of Indian Child/Out of County
- 130) CAS865 12+82) Natural Mother and/or Presumed Father of Indian Child/Out of County
- 131) AD386 12+82) Presumed Father of Indian Child Denies Paternity
- 132) CAS861 12+82) Presumed Father of Indian Child Denies Paternity

- 133) AD867 (2/82) Presumed Father of Indian Child Denies Paternity+Out of State
- 134) CAS862 (2/82) Presumed Father of Indian Child Denies Paternity+Out of State
- 135) AD868 (2/82) Alleged Natural Father of Indian Child
- 136) CAS867 (2/82) Alleged Natural Father of Indian Child
- 137) AD873 (2/82) Presumed Father of Indian Child Denies Paternity+Out of County
- 138) CAS868 (2/82) Presumed Father of Indian Child Denies Paternity+Out of County/

(b) When the relinquishing parent does not name the person or persons with whom he or she intends that placement of the child for adoption be made by the agency and the child is not subject to the Indian Child Welfare Act, the following relinquishment document shall be used for taking the relinquishment of:

(1) A Mother or Presumed Father not Denying Paternity:

- (A) In California and signing relinquishment in presence of agency accepting relinquishment: AD 501
- (B) In California and signing relinquishment in presence of an agency different from the one accepting the relinquishment: AD 503
- (C) Not in California and not signing before military officer: AD 501A
- (D) Not in California and signing before military officer: AD 504

(2) A Presumed Father Denying Paternity:

- (A) In California and signing relinquishment in presence of agency accepting relinquishment: AD 585
- (B) In California and signing relinquishment in presence of an agency different from the one accepting the relinquishment: AD 583
- (C) Not in California: AD 584

(3) An Alleged Father not Denying Paternity:

- (A) In California: AD 586
- (B) Not in California and not signing before military officer: AD 591

- (C) Not in California and signing before military officer: AD 593
- (4) An Alleged Father Denying Paternity: AD 588
- (5) An Alleged Father Waiving Right to Further Notice: AD 590
- (c) When the relinquishing parent does not name the person or persons with whom he or she intends that placement of the child for adoption be made by the agency and the child is subject to the Indian Child Welfare Act, the following relinquishment document shall be used for taking the relinquishment of:
  - (1) A Mother or Presumed Father not Denying Paternity:
    - (A) In California and signing relinquishment in presence of agency accepting relinquishment: AB 864
    - (B) In California and signing relinquishment in presence of an agency different from the one accepting the relinquishment: AD 865
    - (C) Not in California: AD 863
  - (2) A Presumed Father Denying Paternity:
    - (A) In California and signing relinquishment in presence of agency accepting relinquishment: AD 866
    - (B) In California and signing relinquishment in presence of an agency different from the one accepting the relinquishment: AD 873
    - (C) Not in California: AD 867
  - (3) An Alleged Father not Denying Paternity:
    - (A) In California: AD 868
    - (B) Not in California: AD 862
- (d) When the relinquishing parent names the person or persons with whom he or she intends that placement of the child for adoption be made by the agency the following relinquishment document shall be used for taking the relinquishment of:
  - (1) A Mother or Presumed Father not Denying Paternity and not Subject to Indian Child Welfare Act:
    - (A) In California and signing relinquishment in presence of agency accepting relinquishment: AD 921
  - (2) An Alleged Father not Denying Paternity and not Subject to Indian Child Welfare Act:
    - (A) In California: AD 920

- (3) An individual in all other relinquishment circumstances: The relinquishment document listed in Sections 35145(b) or (c) which is appropriate to the relinquishing parent's status and the AD 922.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 222.10, Civil Code.



Amend Sections 35147(b)(1)(F), (I), (O) and (R)2.; adopt new Section 35147(b)(1)(U), renumber existing Section 35147(b)(1)(U) to (b)(1)(V) and amend to read:

35147      STATEMENT OF UNDERSTANDING FOR THE PARENT WHO IS NOT SUBJECT      35147  
TO THE ICWA (Continued)

(b) (Continued)

(1) (Continued)

(A) through (E) (Continued)

(F) Relinquishment means *giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The* parent who relinquishes will no longer be the child's legal parent. (Continued)

(I) A parent who relinquishes a child gives up the *right to select adoptive parents* care, custody and control of the child to the adoption agency.

HANDBOOK BEGINS HERE

1/ *Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.*

HANDBOOK ENDS HERE

1. If the parent signs a relinquishment document that does not name the adopting parents, the parent gives up the right to select adoptive parents and the adoption agency shall make the final decision regarding who will adopt the child.

2. If the parent signs a relinquishment document that names the adopting parents, the parent has the rights and responsibilities specified in Subdivisions (e), (f) and (g) of Civil Code Section 222.10.

HANDBOOK BEGINS HERE

(i) The content of Subdivisions (e), (f) and (g) of Civil Code Section 222.10 is located at Section 35167(b)(1).

HANDBOOK ENDS HERE

(J) through (N) (Continued)

- (O) A relinquishment shall be final when it is filed by the department and, except when the adopting parent is named on the relinquishment document and the adoption is not completed as described in Section 35147(b)(1)(I)2., may be rescinded only if the agency agrees. (Continued)
- (R) The agency cannot release any identifying information about the parent unless:
1. (Continued)
  2. The adult adoptee/ ~~any living adoptive parent~~ and birth parent ~~all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact~~ among both sign written consents to arrange contact between these persons in accordance with Civil Code Section 229.50, or (Continued)
- (S) through (T) (Continued)
- (U) The provisions of Section 35129 regarding two face-to-face interviews, the dates the interviews were held and that a copy of the Statement of Understanding and the Relinquishment Document were given to the relinquishing parent at the first interview.
- (V) The Statement of Understanding for a mother or presumed father who has a legal right to physical custody of the child and whose child is not subject to the provisions of the ICWA is the AD 885 ~~1/1/00~~. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 221.50, 221.74, 221.76, 222.10, 222.13, 222.15, 222.20, 222.26, 229.20, 229.30, 229.40(c), 229.50, and 7017, Civil Code; Sections 6408 and 6408.5, Probate Code; and Section 16507.5, Welfare and Institutions Code.

Amend Sections 35147(b)(2)(F), (H), (O) and (T)2.; adopt new Section 35147(b)(2)(W); then renumber existing Section 35147(b)(2)(W) to (b)(2)(X) and amend to read:

35147      STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE CHILD IS NOT      35147  
SUBJECT TO THE ICWA (Continued)

(b) (Continued)

(2) (Continued)

(A) through (E) (Continued)

(F) Relinquishment means *giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The* parent who relinquishes will no longer be the child's legal parent. (Continued)

(H) A parent who relinquishes a child gives up the *right to select adoptive parents* care, custody and control of the child to the adoption agency.

HANDBOOK BEGINS HERE

1/ *Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.*

HANDBOOK ENDS HERE

1. If the parent signs a relinquishment document that does not name the adopting parents, the parent gives up the right to select adoptive parents and the adoption agency shall make the final decision regarding who will adopt the child.

2. If the parent signs a relinquishment document that names the adopting parents, the parent has the rights and responsibilities specified in Subdivisions (e), (f) and (g) of the Civil Code Section 222.10.

HANDBOOK BEGINS HERE

(i) The content of Subdivisions (e), (f) and (g) of the Civil Code Section 222.10 is located at Section 35167(b)(1).

HANDBOOK ENDS HERE

(J) through (N) (Continued)

(O) A relinquishment shall be final when it is filed by the department and, except when the adopting parent is named on the relinquishment document and the adoption is not completed as described in Section 35147(b)(2)(H)2., may be rescinded only if the agency agrees. (Continued)

(P) through (S) (Continued)

(T) The agency cannot release any identifying information about the parent unless:

1. (Continued)

2. The adult adoptee/ ~~any living adoptive parent~~ and birth parent ~~all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact~~ among both sign written consents to arrange contact between these persons in accordance with Civil Code Section 229.50, or (Continued)

(U) through (V) (Continued)

(W) The provisions of Section 35129 regarding two face-to-face interviews, the dates the interviews were held and that a copy of the Statement of Understanding and the Relinquishment Document were given to the relinquishing parent at the first interview.

(WX) The Statement of Understanding for a mother or presumed father who has been deprived of physical custody of the child by juvenile court order and has not received family maintenance or reunification services and whose child is not subject to the provisions of the ICWA is the AD 885A ~~1/90~~. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 221.40, 221.74, 221.76, 222.10, 222.13, 222.15, 222.20, 222.26, 229.20, 229.30, 229.40(c), 229.50, and 7017, Civil Code; Sections 6408 and 6408.5, Probate Code; and Section 16507.5, Welfare and Institutions Code.

Amend Sections 35147(b)(3)(H), (J), (O) and (V)2.; adopt new Section 35147(b)(3)(Y); then renumber existing Section 35147(b)(3)(Y) to (b)(3)(Z) and amend to read:

35147      STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE CHILD IS NOT      35147  
SUBJECT TO THE ICWA (Continued)

(b) (Continued)

(3) (Continued)

(A) through (G) (Continued)

(H) Relinquishment means *giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The* parent who relinquishes will no longer be the child's legal parent. (Continued)

(J) A parent who relinquishes a child gives up the *right to select adoptive parents* care, custody and control of the child to the adoption agency.

HANDBOOK BEGINS HERE

1/ *Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adopting agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.*

HANDBOOK ENDS HERE

1. If the parent signs a relinquishment document that does not name the adopting parents, the parent gives up the right to select adoptive parents and the adoption agency shall make the final decision regarding who will adopt the child.

2. If the parent signs a relinquishment document that names the adopting parents, the parent has the rights and responsibilities specified in Subdivisions (e), (f) and (g) of Civil Code Section 222.10.

HANDBOOK BEGINS HERE

(i) The content of Subdivisions (e), (f) and (g) of Civil Code Section 222.10 is located at Section 35167(b)(1).

HANDBOOK ENDS HERE

(K) through (N) (Continued)

(O) A relinquishment shall be final when it is filed by the department and, except when the adopting parent is named on the relinquishment document and the adoption is not completed as described in Section 35147(b)(3)(J)2., may be rescinded only if the agency agrees. (Continued)

(P) through (U) (Continued)

(V) The agency cannot release any identifying information about the parent unless:

1. (Continued)

2. The adult adoptee/ ~~any living adoptive parent~~ and birth parent ~~all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact~~ among both sign written consents to arrange contact between these persons in accordance with Civil Code Section 229.50, or (Continued)

(W) through (X) (Continued)

(Y) The provisions of Section 35129 regarding two face-to-face interviews, the dates the interviews were held and that a copy of the Statement of Understanding and the Relinquishment Document were given to the relinquishing parent at the first interview.

(YZ) The Statement of Understanding for a mother or presumed father who has been deprived of physical custody of the child by juvenile court order and has received family maintenance or reunification services and whose child has been referred by the juvenile court to the permanency planning program with a plan of adoption and whose child is not subject to the provisions of the ICWA is the AD 885B ~~11/90Y~~.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 221.40, 221.74, 221.76, 222.10, 222.13, 222.15, 222.20, 222.26, 229.20, 229.30, 229.40(c), 229.50, and 7017, Civil Code; Sections 6408 and 6408.5, Probate Code; and Section 16507.5, Welfare and Institutions Code.

Amend Sections 35147(b)(4)(F), (H), (R) and (U)2.; adopt new Section 35147(b)(4)(X); then renumber existing Section 35147(b)(4)(X) to (b)(4)(Y) and amend to read:

35147      STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE CHILD IS NOT      35147  
SUBJECT TO THE ICWA (Continued)

(b) (Continued)

(4) (Continued)

(A) through (E) (Continued)

(F) Relinquishment means *giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The* parent who relinquishes will no longer be the child's legal parent. (Continued)

(H) When he relinquishes a child, he gives up the ~~right to select adoptive parents~~ care, custody and control of the child to the adoption agency.

HANDBOOK BEGINS HERE

1/ *Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.*

HANDBOOK ENDS HERE

1. If the parent signs a relinquishment document that does not name the adopting parents, the parent gives up the right to select adoptive parents and the adoption agency shall make the final decision regarding who will adopt the child.

2. If the parent signs a relinquishment document that names the adopting parents, the parent has the rights and responsibilities specified in Subdivisions (e), (f) and (g) of Civil Code Section 222.10.

HANDBOOK BEGINS HERE

(i) The content of Subdivisions (e), (f) and (g) of Civil Code Section 222.10 is located at Section 35167(b)(1).

HANDBOOK ENDS HERE

(I) through (Q) (Continued)

- (R) A relinquishment shall be final when it is filed by the department and, except when the adopting parent is named on the relinquishment document and the adoption is not completed as described in Section 35147(b)(4)(H)2., may be rescinded only if the agency agrees. (Continued)
- (S) (Continued)
- (T) (Continued)
- (U) The agency cannot release any identifying information about him unless:
1. (Continued)
  2. The adult adoptee/ ~~any living adoptive parent~~ and birth parent ~~all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact~~ among both sign written consents to arrange contact between these persons in accordance with Civil Code Section 229.50, or (Continued)
- (V) through (W) (Continued)
- (X) The provisions of Section 35129 regarding two face-to-face interviews, the dates the interviews were held and that a copy of the Statement of Understanding and the Relinquishment Document were given to the relinquishing parent at the first interview.
- (XY) The Statement of Understanding for an alleged natural father who relinquishes his child and whose child is not subject to the provisions of the ICWA is the AD 885C ~~13/90~~. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 221.40, 221.74, 221.76, 222.10, 222.13, 222.15, 222.20, 222.26, 229.20, 229.30, 229.40(c), 229.50, and 7017, Civil Code; Sections 6408 and 6408.5, Probate Code; and Section 16507.5, Welfare and Institutions Code.



Amend Sections 35148(b)(1)(F), (I) and (b)(1)(P)2.; adopt new Section 35148(b)(1)(EE), then renumber existing Section 35148(b)(1)(EE) to (b)(1)(FF) and amend to read:

35148 STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE CHILD IS  
SUBJECT TO THE ICWA (Continued)

35148

(b) (Continued)

(1) (Continued)

(A) through (E) (Continued)

(F) Relinquishment means *giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The the* parent who relinquishes will no longer be the child's legal parent. (Continued)

(I) A parent who relinquishes a child gives up the *right to select adoptive parents* care, custody and control of the child to the adoption agency.

HANDBOOK BEGINS HERE

1/ Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.

HANDBOOK ENDS HERE

1. If the parent signs a relinquishment document that does not name the adopting parents, the parent gives up the right to select adoptive parents and the adoption agency shall make the final decision regarding who will adopt the child.
2. If the parent signs a relinquishment document that names the adopting parents, the parent has the rights and responsibilities specified in Subdivisions (e), (f) and (g) of Civil Code Section 222.10.

HANDBOOK BEGINS HERE

(i) The content of Subdivisions (e), (f) and (g) of Civil Code Section 222.10 is located at Section 35167(b)(1).

HANDBOOK ENDS HERE

(J) through (O) (Continued)

(P) The agency cannot release any identifying information about the parent unless:

1. (Continued)

2. The adult adoptee/ ~~any living adoptive parent~~ and birth parent ~~all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact~~ among both sign written consents to arrange contact between these persons in accordance with Civil Code Section 229.50, or (Continued)

(Q) through (DD) (Continued)

(EE) The provisions of Section 35129 regarding two face-to-face interviews, the dates the interviews were held and that a copy of the Statement of Understanding and the Relinquishment Document were given to the relinquishing parent at the first interview.

~~(EFF)~~ The Statement of Understanding for a mother or presumed father who has a legal right to physical custody of the child and whose child is subject to the provisions of the ICWA is the AD 899 ~~1/1/90~~. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 221.40, 221.74, 221.76, 222.10, 222.13, 222.15, 222.20, 222.26, 229.20, 229.30, 229.40(c), 229.50, and 7017, Civil Code; Sections 6408 and 6408.5, Probate Code; Section 16507.5, Welfare and Institutions Code; and 25 USC Sections 1901, 1902, 1903, 1911, 1912, 1913, 1914, 1915, 1916, and 1917.

Amend Sections 35148(b)(2)(F), (H) and (b)(2)(R)2.; adopt new Section 35148(b)(2)(FF), then renumber existing Section 35148(b)(2)(FF) to (b)(2)(GG) and amend to read:

35148 STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE CHILD IS  
SUBJECT TO THE ICWA (Continued)

35148

(b) (Continued)

(2) (Continued)

(A) through (E) (Continued)

(F) Relinquishment means *giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The* parent who relinquishes will no longer be the child's legal parent. (Continued)

(H) A parent who relinquishes a child gives up the *right to select adoptive parents* care, custody and control of the child to the adoption agency.

HANDBOOK BEGINS HERE

1/ *Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family.*

HANDBOOK ENDS HERE

1. If the parent signs a relinquishment document that does not name the adopting parents, the parent gives up the right to select adoptive parents and the adoption agency shall make the final decision regarding who will adopt the child.

2. If the parent signs a relinquishment document that names the adopting parents, the parent has the rights and responsibilities specified in Subdivisions (e), (f) and (g) of Civil Code Section 222.10.

HANDBOOK BEGINS HERE

(i) The content of Subdivisions (e), (f) and (g) of Civil Code Section 222.10 is located at Section 35167(b)(1).

HANDBOOK ENDS HERE

(I) through (Q). (Continued)

(R) The agency cannot release any identifying information about the parent unless:

1. (Continued)

2. The adult adoptee/ ~~any living adoptive parent~~ and birth parent ~~all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact~~ among both sign written consents to arrange contact between these persons in accordance with Civil Code Section 229.50, or (Continued)

(S) through (EE) (Continued)

(FF) The provisions of Section 35129 regarding two face-to-face interviews, the dates the interviews were held and that a copy of the Statement of Understanding and the Relinquishment Document were given to the relinquishing parent at the first interview.

~~(FFGG)~~ The Statement of Understanding for a mother or presumed father who has a legal right to physical custody of the child and whose child is subject to the provisions of the ICWA is the AD 899B ~~11/90~~. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 221.40, 221.74, 221.76, 222.10, 222.13, 222.15, 222.20, 222.26, 229.20, 229.30, 229.40(c), 229.50, and 7017, Civil Code; Sections 6408 and 6408.5, Probate Code; Section 16507.5, Welfare and Institutions Code; and 25 USC Sections 1901, 1902, 1903, 1911, 1912, 1913, 1914, 1915, 1916, and 1917.

Amend Sections 35148(b)(3)(H), (J) and (b)(3)(T)2.; adopt new Section 35148(b)(3)(HH), then renumber existing Section 35148(b)(3)(HH) to (b)(3)(II) and amend to read:

35148 STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE CHILD IS  
SUBJECT TO THE ICWA (Continued)

35148

(b) (Continued)

(3) (Continued)

(A) through (G) (Continued)

(H) Relinquishment means *giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The* parent who relinquishes will no longer be the child's legal parent. (Continued)

(J) A parent who relinquishes a child gives up the *right to select adoptive parents* care, custody and control of the child to the adoption agency.

HANDBOOK BEGINS HERE

1/ *Since the agency receives care, custody and control of the child when the relinquishment document has been filed with the department, the final determination of adoptive parents must be made by the adoption agency. The adoption agency may choose to permit the relinquishing parent to participate in the selection of the adoptive family!*

HANDBOOK ENDS HERE

1. If the parent signs a relinquishment document that does not name the adopting parents, the parent gives up the right to select adoptive parents and the adoption agency shall make the final decision regarding who will adopt the child.

2. If the parent signs a relinquishment document that names the adopting parents, the parent has the rights and responsibilities specified in Subdivisions (e), (f) and (g) of Civil Code Section 222.10.

HANDBOOK BEGINS HERE

(i) The content of Subdivisions (e), (f) and (g) of Civil Code Section 222.10 is located at Section 35167(b)(1).

HANDBOOK ENDS HERE

(K) through (S) (Continued)

(T) The agency cannot release any identifying information about the parent unless:

1. (Continued)

2. The adult adoptee/ ~~any living adoptive parent~~ and birth parent ~~all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact~~ among both sign written consents to arrange contact between these persons in accordance with Civil Code Section 229.50, or (Continued)

(U) through (GG) (Continued)

(HH) The provisions of Section 35129 regarding two face-to-face interviews, the dates the interviews were held and that a copy of the Statement of Understanding and the Relinquishment Document were given to the relinquishing parent at the first interview.

~~(VII)~~ The Statement of Understanding for a mother or presumed father who has been deprived of physical custody of the child by juvenile court order and has received family maintenance or reunification services and whose child has been referred by the juvenile court to the permanency planning program with a plan of adoption and whose child is subject to the provisions of the ICWA is the AD 899A ~~(3/90)~~. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 221.40, 221.74, 221.76, 222.10, 222.13, 222.15, 222.20, 222.26, 229.20, 229.30, 229.40(c), 229.50, and 7017, Civil Code; Sections 6408 and 6408.5, Probate Code; Section 16507.5, Welfare and Institutions Code; and 25 USC Sections 1901, 1902, 1903, 1911, 1912, 1913, 1914, 1915, 1916, and 1917.

Amend Sections 35148(b)(4)(G), (I) and (b)(4)(T)2.; adopt new Section 35148(b)(4)(II); then renumber existing Section 35148(b)(4)(II) to (b)(4)(JJ) and amend to read:

35148 STATEMENT OF UNDERSTANDING FOR THE PARENT WHOSE CHILD IS

SUBJECT TO THE ICWA (Continued)

(b) (continued)

(4) (continued)

(A) through (F) (Continued)

(G) Relinquishment means giving up a child to the agency for adoption and having the agency choose someone to adopt the child. The parent who relinquishes will no longer be the child's legal parent. (Continued)

(I) When he relinquishes a child, he gives up the right to select adoptive parents care, custody and control of the child to the adoption agency.

HANDBOOK BEGINS HERE

1. State the agency fees, costs, charges and amount of the child when the relinquishment document has been filed with the department. The final decision regarding who will adopt the child. If the parent signs a relinquishment document that does not name the adopting parents, the parent gives up the right to select adoptive parents and the adoption agency shall make the final decision regarding who will adopt the child.

2. If the parent signs a relinquishment document that names the adopting parents, the parent has the rights and responsibilities specified in Subdivisions (e), (f) and (g) of Civil Code Section 222.10.

HANDBOOK BEGINS HERE

(J) The content of Subdivisions (e), (f) and (g) of Civil Code Section 222.10 is located at Section 35167(b)(1).

HANDBOOK ENDS HERE

(J) through (S) (Continued)

(T) The agency cannot release any identifying information about the parent unless:

1. (Continued)

2. The adult adoptee/ ~~any living adoptive parent~~ and birth parent ~~all sign waivers of his/her right to confidentiality of the adoption record for the purpose of arranging contact~~ among both sign written consents to arrange contact between these persons in accordance with Civil Code Section 229.50, or (Continued)

(U) through (HH) (Continued)

(II) The provisions of Section 35129 regarding two face-to-face interviews, the dates the interviews were held and that a copy of the Statement of Understanding and the Relinquishment Document were given to the relinquishing parent at the first interview.

(JJ) The Statement of Understanding for an alleged natural father who relinquishes his child and whose child is subject to the provisions of the ICWA through the mother's tribe is the AD 899C ~~11/90Y.~~

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 221.40, 221.74, 221.76, 222.10, 222.13, 222.15, 222.20, 222.26, 229.20, 229.30, 229.40(c), 229.50, and 7017, Civil Code; Sections 6408 and 6408.5, Probate Code; Section 16507.5, Welfare and Institutions Code; and 25 U.S.C. Sections 1901, 1902, 1903, 1911, 1912, 1913, 1914, 1915, 1916, and 1917.



Adopt Section 35156 to read:

35156      ADDITIONAL REQUIREMENT IF RELINQUISHED CHILD IS NOT PLACED  
FOR ADOPTION

35156

- (a) If a relinquishment document names the person or persons with whom the relinquishing parent intends that placement of the child for adoption be made by the agency and the agency decides not to place the child for adoption with the named person or persons, the agency shall notify the relinquishing parent naming the person or persons that the placement will not be made and of his or her right to rescind the relinquishment and reclaim the child as required by Civil Code Section 222.10(f).

HANDBOOK BEGINS HERE

- (1) Civil Code Section 222.10(f) reads as follows:

"(f) Notwithstanding subdivision (d), if the relinquishment names the person or persons with whom placement by the department or licensed adoption agency is intended and the child is not placed in the home of the named person or persons or the child is removed from the home prior to the granting of the adoption, the department or licensed adoption agency shall mail a notice by certified mail, return receipt requested, to the birth parent signing the relinquishment within 72 hours of the decision not to place the child for adoption or the decision to remove the child from the home."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 222.10, Civil Code.

Amend Handbook Section 35167(b)(1) to read:

35167      AUTHORITY FOR RESCISSION

35167

(a) (Reserved)

(b) A relinquishment which has been filed with the department shall be rescinded only as specified at Civil Code Section 222.10.

HANDBOOK BEGINS HERE

(1) Civil Code Section 222.10, in pertinent part, reads as follows:

~~"/Upon filing with the department, the relinquishment is final and may be rescinded only by the mutual consent of the adoption agency and the parent or parents relinquishing the child."/~~

"(d) The relinquishment authorized by this section shall be of no effect until a certified copy is filed with the department. Upon filing with the department, the relinquishment is final and may be rescinded only by the mutual consent of the department or licensed adoption agency to which the child was relinquished and the birth parent or parents relinquishing the child."

"(e) The birth parent may name in the relinquishment the person or persons with whom the birth parent intends that placement of the child for adoption be made by the department or licensed adoption agency."

"(f) Notwithstanding subdivision (d), if the relinquishment names the person or persons with whom placement by the department or licensed adoption agency is intended and the child is not placed in the home of the named person or persons or the child is removed from the home prior to the granting of the adoption, the department or licensed adoption agency shall mail a notice by certified mail, return receipt requested, to the birth parent signing the relinquishment within 72 hours of the decision not to place the child for adoption or the decision to remove the child from the home."

"(g) The birth parent shall have 30 days from the date on which the notice was mailed to rescind the relinquishment."

(i) If the birth parent requests rescission during the 30-day period, the department or licensed adoption agency shall rescind the relinquishment."

(ii) If the birth parent does not request rescission during the 30-day period, the department or licensed adoption agency shall select adoptive parents for the child."

(iii) If the birth parent and adoption agency wish to identify a different person or persons during the 30-day period with whom the child is intended to be placed, the initial relinquishment shall be rescinded and a new relinquishment identifying the person or persons completed.

"(h) The filing of the relinquishment with the department shall terminate all parental rights and responsibilities with regard to the child, except as provided in Subdivisions (f) and (g)."

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Section 222.10, Civil Code; and 25 USC 1901 et seq.

Amend Section 35169 to read:

35169      EXPRESSION OF INTENT TO RESCIND RELINQUISHMENT

35169

(a) (Continued)

(b) (Continued)

(c) Notwithstanding Section 35169(b), the agency shall rescind the relinquishment of any parent who, having been notified as provided in Civil Code Section 222.10(f), delivers, or has delivered by mail or other method, before the end of the 30-day period beginning on the day after the notice was mailed a written request to the agency stating that he or she wishes to rescind his or her relinquishment and/or have the child returned.

(1) In all such cases, the agency shall:

(A) Notify the Juvenile Court, if the child is a dependent of the court, that the relinquishment has been rescinded;

(B) Mark "VOID" on all copies of the relinquishment form signed by the rescinding parent;

(C) File the rescinded relinquishment in the case record; and

(D) Notify the department of the rescission within three working days from the date the written request to rescind the relinquishment was received.

(2) If the parent identifies a different person or persons with whom the child is to be placed and the agency concurs with this plan, the agency shall accept a new relinquishment as provided in Subchapter 5, Article 2.

(3) If the parent does not wish the agency to engage in further adoptive planning for the child or if the parent identifies a different person or persons with whom the child is to be placed and the agency does not concur with this plan, the agency shall:

(A) Mutually agree with the parent regarding the time and place for return of the child if the child is not a dependent of the court.

1. The agency shall return the child no later than seven working days from the time the request to rescind is made.

2. The agency shall obtain a signed statement from the rescinding parent that physical custody of the child was returned to him or her.

(B) Notify any other relinquishing parent of the rescission and inform him or her that he or she may also rescind his or her relinquishment.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and  
Section 1530, Health and Safety Code.

Reference: Section 222.10, Civil Code; and 25 USC 1901 et seq.

Amend Section 35223 to read:

35223 WRITTEN NOTIFICATION OF TERMINATION OF ADOPTIVE PLACEMENT

35223

(a) (Reserved)

HANDBOOK BEGINS HERE

(a) (Continued)

HANDBOOK ENDS HERE

(b) (Continued)

(c) In the event that a relinquishment document names the person or persons with whom the relinquishing parent intends that placement of the child for adoption be made by the agency and the agency terminates the placement with the named person or persons, the agency shall notify the relinquishing parent naming the person or persons of the termination of the placement and of his or her right to rescind the relinquishment and reclaim the child as required by Civil Code Section 222.10(f).

HANDBOOK BEGINS HERE

(1) Civil Code Section 222.10(f) reads as follows:

"(f) Notwithstanding subdivision (d), if the relinquishment names the person or persons with whom placement by the department or licensed adoption agency is intended and the child is not placed in the home of the named person or persons or the child is removed from the home prior to the granting of the adoption, the department or licensed adoption agency shall mail a notice by certified mail, return receipt requested, to the birth parent signing the relinquishment within 72 hours of the decision not to place the child for adoption or the decision to remove the child from the home.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 1530, Health and Safety Code.

Reference: Sections 222.10 and 222.20, Civil Code; and 25 U.S.C. 1901 et seq.

**EMERGENCY**  
**NOTICE PUBLICATION REGULATIONS SUBMISSION**(See instructions on  
reverse)original  
For use by Secretary of State only

STD. 400 (REV. 2-91)

**AGENCY**

Calif. Department of Social Services

AGENCY FILE NUMBER (If any)

RDB #  
0693-28OAL FILE  
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

93-0909-03E

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

SEP 20 1993

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In this office of the Secretary of State  
of the State of California

SEP 20 1993

At 3:55 o'clock P.M.  
MARCH 17 1993, Secretary of State

Cynthia J. Pace

**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. TOPIC OF NOTICE <u>Crary v. McMahon</u> Interest Computations		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)**1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S)** (Including title 26, if toxics-related)TITLE(S) Manual of Policies ADOPT  
and Procedures (MPP)**SECTIONS  
AFFECTED**

AMEND

50-021.6, .62, .63, .65, and .7

REPEAL

**2. TYPE OF FILING**

- ☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☒ Emergency (Gov. Code, § 11346.1(b))
- ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.
- ☐ Print Only ☐ Other (specify)

**3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE** (Cal. Code Regs. title 1, §§ 44 and 45)**4. EFFECTIVE DATE OF REGULATORY CHANGES** (Gov. Code § 11346.2)

- ☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

**5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY**

- ☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal
- ☐ Other (Specify)

**6. CONTACT PERSON**

James W. Rhoads, Asst. Bureau Chief, Regulations Development Bureau

TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

JUL 22 1993



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.



Amend Sections 50-021.6, .62, .63, and .65 and adopt Section 50-021.7 to read:

50-021 CRARY V. McMAHON RETROACTIVE COURT ORDER (Continued)

.6 Computation of Corrective ~~Underp~~Payments

.61 (Continued)

.62 ~~In~~For the Food Stamp Program, a retroactive corrective ~~underpayment~~ shall be ~~counted~~ excluded as income for all Food Stamp households and excluded as a resource but excluded as income in the month received for categorically eligible Food Stamp households as long as they remain eligible for AFDC [MPP Section 63-501.3(o) and Section 63-502.2(j)].

.63 Counties shall offset any corrective ~~underpayment~~ against outstanding recoupable overpayments as specified in MPP Section 42-751.4.

.631 For claimants no longer ~~in the GAIN program or on AFDC~~ on aid, the responsible county ~~must still~~ shall offset the retroactive payment for supportive services against ~~any outstanding~~ overpayments as specified in MPP Section 42-751.41.

.632 Counties shall use a Temp GAIN 83 (Agreement to Balance GAIN Supportive Services Corrective Payment Against AFDC/Child Care Overpayment [7/93]) to request an agreement to balance retroactive corrective supportive service payments against outstanding AFDC and/or child care overpayments.

.64 (Continued)

.65 ~~The legal rate of interest shall be paid by counties to all class members who are no longer on aid as specified in Civil Code Section 3287/~~Computation of Interest. Counties shall:

.651 Pay interest on corrective payments to class members who are no longer on aid.

.652 Compute said interest and issue payment and issue a NOA M50-021A2 (Crary Retroactive Interest Payment [Rev. 8/93]). The payment period shall end September 30, 1993.

.653 Compute the amount of interest at the rate of seven (7) percent per year on the principal amount.

.654 Multiply the total corrective payment by the appropriate interest factor set forth in Handbook Section 50-021.655.

(a) To determine the appropriate interest rate multiplier factor, a county shall first determine the last month the class member received a transportation supportive service payment (Retroactive Benefit Month) and the month the class member was paid the corrective payment (Retroactive Payment Month). Where the two dates meet on the "Interest Chart for Crary Retroactive Corrective Payments" shall be the multiplying factor to be used to determine how much interest is to be paid the class member.

HANDBOOK BEGINS HERE

(b) EXAMPLE: As a result of the Crary Court Order, the county owes Sue \$200.00 reflecting payment for transportation expenses for three months ending December 1987. The county paid Sue \$200.00 in September 1992. The retroactive benefit month is January 1988, and the retroactive payment month is August 1992. In September 1993, the county computes the interest to be paid to Sue, who is no longer on aid, at the rate of 7 per cent per year on the \$200.00 principal amount.

Retroactive Benefit Month--Jan. 1988 (Interest  
= .3267 factor)  
Retroactive Payment Month--Sept. 1992

Payment Paid Sept. 1992 \$200.00  
Interest Percentage Factor X .3267  
Interest Paid September 1993: = \$ 65.34

.655 Interest Chart for Crary Retroactive Benefit Payments

<u>Retro- active Benefit Month</u>	<u>Retroactive Payment Month</u>				
	Jul-92	Aug-92	Sep-92	Oct-92	Nov-92
Dec-86	.3908	.3967	.4025	.4083	.4142
Jan-87	.3850	.3908	.3967	.4025	.4083
Feb-87	.3792	.3850	.3908	.3967	.4025
Mar-87	.3733	.3792	.3850	.3908	.3967
Apr-87	.3675	.3733	.3792	.3850	.3908
May-87	.3617	.3675	.3733	.3792	.3850
Jun-87	.3558	.3617	.3675	.3733	.3792
Jul-87	.3500	.3558	.3617	.3675	.3733
Aug-87	.3442	.3500	.3558	.3617	.3675
Sep-87	.3383	.3442	.3500	.3558	.3617
Oct-87	.3325	.3383	.3442	.3500	.3558
Nov-87	.3267	.3325	.3383	.3442	.3500
Dec-87	.3208	.3267	.3325	.3383	.3442

<u>Retro- active Benefit Month</u>	<u>Retroactive Payment Month</u>				
	Jul-92	Aug-92	Sep-92	Oct-92	Nov-92
Jan-88	.3150	.3208	.3267	.3325	.3383
Feb-88	.3092	.3150	.3208	.3267	.3325
Mar-88	.3033	.3092	.3150	.3208	.3267
Apr-88	.2975	.3033	.3092	.3150	.3208
May-88	.2917	.2975	.3033	.3092	.3150
Jun-88	.2858	.2917	.2975	.3033	.3092
Jul-88	.2800	.2858	.2917	.2975	.3033
Aug-88	.2742	.2800	.2858	.2917	.2975
Sep-88	.2683	.2742	.2800	.2858	.2917
Oct-88	.2625	.2683	.2742	.2800	.2858
Nov-88	.2567	.2625	.2683	.2742	.2800
Dec-88	.2508	.2567	.2625	.2683	.2742
Jan-89	.2450	.2508	.2567	.2625	.2683
Feb-89	.2392	.2450	.2508	.2567	.2625
Mar-89	.2333	.2392	.2450	.2508	.2567
Apr-89	.2275	.2333	.2392	.2450	.2508
May-89	.2217	.2275	.2333	.2392	.2450
Jun-89	.2158	.2217	.2275	.2333	.2392
Jul-89	.2100	.2158	.2217	.2275	.2333
Aug-89	.2042	.2100	.2158	.2217	.2275
Sep-89	.1983	.2042	.2100	.2158	.2217
Oct-89	.1925	.1983	.2042	.2100	.2158
Nov-89	.1867	.1925	.1983	.2042	.2100
Dec-89	.1808	.1867	.1925	.1983	.2042

<u>Retro- active Benefit Month</u>	<u>Retroactive Payment Month</u>				
	Jul-92	Aug-92	Sep-92	Oct-92	Nov-92
Jan-90	.1750	.1808	.1867	.1925	.1983
Feb-90	.1692	.1750	.1808	.1867	.1925
Mar-90	.1633	.1692	.1750	.1808	.1867
Apr-90	.1575	.1633	.1692	.1750	.1808
May-90	.1517	.1575	.1633	.1692	.1750
Jun-90	.1458	.1517	.1575	.1633	.1692
Jul-90	.1400	.1458	.1517	.1575	.1633
Aug-90	.1342	.1400	.1458	.1517	.1575
Sep-90	.1283	.1342	.1400	.1458	.1517
Oct-90	.1225	.1283	.1342	.1400	.1458
Nov-90	.1167	.1225	.1283	.1342	.1400
Dec-90	.1108	.1167	.1225	.1283	.1342
Jan-91	.1050	.1108	.1167	.1225	.1283
Feb-91	.0992	.1050	.1108	.1167	.1225
Mar-91	.0933	.0992	.1050	.1108	.1167
Apr-91	.0875	.0933	.0992	.1050	.1108

HANDBOOK ENDS HERE

.7 Statistical Reporting

.71 (Continued)

.72 Report shall include the number of: (Continued)

.728 Total interest paid.

(a) Total claims paid interest.

.73 The GEN 1172 (Court Case Statistical Report [3/91]) for the Crary Interest Statistical Report shall be submitted to Statistical Services Bureau by October 31, 1993.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Crary v. McMahon, Sacramento County Superior Court, Case No. 363143; and Section 11323.2, Welfare and Institutions Code.

# REGULAR

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

AGENCY

(See instructions on reverse)

For use by Secretary of State only

California Department of Social Services			AGENCY FILE NUMBER (If any) RDB#1292-42	
OAL FILE NUMBERS	NOTICE FILE NUMBER Z93-0323-05	REGULATORY ACTION NUMBER 93-0819-048	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATIONADMINISTRATIVE LAW  
SEP 27 1993

Office of Administrative Law

FILED

In the office of the Secretary of State  
of the State of California

SEP 27 1993

At 4:24 O'clock P. M.  
MARSH FONG III, Secretary of State  
By [Signature] Deputy Secretary of State

NOTICE

REGULATIONS

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Food Stamp Clean Up #4		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 25-114-2		PUBLICATION DATE 4-2-93	

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

#### 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT 63-020
SECTIONS AFFECTED	AMEND 63-102, 63-300, 63-301, 63-402, 63-408, 63-501, 63-502, 63-503, 63-504, 63-802
	REPEAL

#### 2. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.6 prior to, or within 120 days of, the effective date of the regulations listed above.			

<input type="checkbox"/> Print Only	<input type="checkbox"/> Other (specify)
-------------------------------------	--

#### 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

July 19, 1993 through August 3, 1993

#### 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> Effective other (Specify) November 1, 1993
--	--	--

#### 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

#### 6. CONTACT PERSON

Jim Rhoads, Assistant Bureau Chief, Regulations Development Bureau

TELEPHONE NUMBER  
657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

[Signature]

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

AUG 18 1993

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any...

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN  
REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt Section 63-020 to read:

63-020 IMPLEMENTATION OF REGULATIONS FOR CLEAN UP PACKAGE #4

63-020

- .1 Effective November 1, 1993 the CWDs shall implement the revised and adopted provisions. The sections affected are as follows: 63-102(t)(4); 63-300.5 and 63-300.512(a)(1) and (c)(1)(A); 63-301.545(a); 63-402.342 and .344; 63-408, .41(j) and (k); 63-501.3(e)(2) and .525 and .526; 63-502.149(a); 63-502.2(d); 63-503.131 and .131(a) and (b); 63-503.242(c)(2); 63-504.392(a), (b) and (c); and 63-802.541.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18901, Welfare and Institutions Code.



Amend Section 63-102 to read:

63-102 DEFINITIONS (Continued)

63-102

(t) (4) "Trafficking" means the buying or selling of coupons, access devices or authorization documents ~~of~~ such as ATP cards for cash. (Continued)

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code;  
8 U.S.C.A. Section 1522(e); 42 U.S.C.A. 601, et seq.; and  
42 U.S.C.A. 5122; 7 CFR 271.2; 7 CFR 273.1(c)(5); 7 CFR  
273.11(a)(2)(iii); 7 CFR 273.2; 7 CFR 273.2 (f)(3)(ii); 7 CFR  
273.16(c); 7 CFR 273.21(b); 7 CFR 274.3(a)(2); 7 CFR 2710.2;  
45 CFR Part 401; 45 CFR 400.62; (Court Order re Final Partial  
Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1;  
1990) \_\_\_\_\_ F. Supp. \_\_\_\_\_ [Dock. No. CV-89-0768].), and  
Section 66011, Education Code.

Amend Section 63-300 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

If obtaining verification of a deductible expense may delay the household's certification beyond the normal processing time frame, the CWD shall advise the household that its eligibility and benefit level may be determined without providing a deduction for the claimed, but unverified expense. (Continued)

.51 Mandatory Verification

The CWD shall verify the following information prior to certification for households initially applying: (Continued)

.512 Alien Status

Based on the application, the CWD shall determine if members identified as aliens are eligible aliens, as defined in Sections 63-403.1(b) through (1), by requiring that the household present verification for each alien member. (Continued)

(a) Aliens in the categories specified in Sections 63-403.1(b), (c) and (h) shall present an Immigration and Naturalization Service (INS) Form I-151 or I-551 --"Alien Registration Receipt Card"; or the "Re-entry Permit," a passport booklet for lawful permanent resident aliens.

(1) Canadian-born North American Indians may verify their permanent residency status with birth records, affidavits from Tribal officials, INS Form I-181, or other INS documentation acceptable to the CWD.  
(Continued)

(c) (Continued)

(1) (Continued).

HANDBOOK BEGINS HERE

(A) Examples of acceptable documentation include, but are not limited to, I-688 Temporary Resident Cards annotated with Section ~~220~~ 210(a) or Section 245A of the Immigration and Nationality Act.

HANDBOOK ENDS HERE

(d) (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 11023.5, and 18904, Welfare and Institutions Code; ~~and~~ 7 CFR 273.2(c)(5), (f)(3)(ii), and (j)(1); 7 CFR 273.4(a)(10); and USDA Food and Nutrition Service Office, Western Region, Administrative Notice 84-56, Indexed Policy Memo 84-23; and 7 U.S.C.A. 2020(e)(2).

Amend Section 63-301 to read:

63-301 APPLICATION PROCESSING TIME STANDARDS

63-301

.5 Expedited Service (Continued)

.54 Special Procedures for Expediting Service (Continued)

.545 When a certification period of longer than one month is assigned, the CWD shall notify the household, in writing that:

- (a) No further benefits will be issued until the postponed verification is completed and the household's participation shall be terminated if the verification for income, resources, residency (except for homeless households), or any deduction is not completed within 30 days following the date the application was filed. (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 18901, and 18904, Welfare and Institutions Code; Section 11349.1, Government Code; 7 CFR 271.2; 7CFR 273.2(f)(1)(vi), (h)(1)(C), (i)(4)(iii)(B), (j), (j)(1), (j)(1)(iv), (j)(2)(iii), (j)(3), (j)(4), and (j)(4)(vi); 7CFR 273.8(e)(17); 7 CFR 273.10(c)(1); 7 CFR 274.2; (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal Feb. 1, 1990) \_\_\_\_\_ F. Supp. \_\_\_\_\_ [Dock. No. CV-89-0768].); and Public Law 102-237, Section 902 and 905, as specified in Federal Administrative Notice 92-12, dated January 9, 1992.

Amend Section 63-402 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.3 Boarders (Continued)

.34 The following persons shall not be considered boarders:

.341 (Continued)

.342 parents living with their natural, adopted, or stepchildren or children living with their natural, adopted, or stepparents, even if ~~unless~~ at least one of the parents is elderly or disabled as defined in Section 63-102 (1).

.343 (Continued)

.344 siblings living with their natural, adopted, half or step-brothers and sisters, except any even if one of the siblings who is elderly or disabled as defined in Section 63-102(1).  
(Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.1(a)(1) through (b)(1)/; 7 CFR 273.1(a)(2)(i)(B) and (C)/; 7 CFR 273.1(b)(1)(iii)/; 7 CFR 273.1(b)(2)(iii)/; 7 CFR 273.1(c)/; 7 CFR 273.1(c)(1)/; 7 CFR 273.1(e)(1)/; 7 CFR 273.1(d)(1) and (2)/; 7 CFR 273.1(g)/; 7 CFR 273.2(j)(4)/; 7 CFR 273.10(c)(1)(i); 7 CFR 274.5 and 7 CFR 274.10/; USDA Administrative Notice 89/65/Policy Memo 89-11 and 89-12/; and Sections 10554 and 18904, Welfare and Institutions Code.

Amend Section 63-408 to read:

63-408 VOLUNTARY QUIT

63-408

No applicant or participating household shall be eligible for participation in the program when a principal work registrant has voluntarily quit employment without good cause as specified in this section. If an individual quits a job, secures new employment that entails at least the same number of hours or the same salary and is then laid off or, through no fault of his/her own, loses the new job, the earlier quit will not form the basis of a disqualification. For the purpose of this section, employment shall mean 20 hours or more per week or weekly earnings equivalent to the federal minimum wage multiplied by 20 hours. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer shall not be considered a voluntary quit for purposes of this section. (Continued)

.4 (Continued)

.41 Good cause for leaving employment shall include: (Continued)

- (j) Situations where there is a lack of adequate child care arrangements available for the registrants children who have reached age six but are under twelve years of age. For purposes of this section, adequate child care arrangements means those which meet the standards in Title 22/ California Administrative Code (CAC) / Division 8/ Chapter 2 commencing with Section 81000 and Chapter 8/3 commencing with Section 88001/ California Code of Regulations, Title 22, Division 12, Chapter 1 commencing with Section 101151, Chapter 2 commencing with Section 101251, and Chapter 3 commencing with Section 102351.1.

*(K) Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer. (Continued)*

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.7(n)(1)(i) and California Code of Regulations, Title 22, Division 12, Chapter 1 commencing with Section 101151, Chapter 2 commencing with Section 101251, and Chapter 3 commencing with Section 102351.1.

Amend Sections 63-501 to read:

63-501 RESOURCE DETERMINATIONS

63-501

.3 Exclusions from Resources

In determining the resources of a household, only the following shall be excluded: (Continued)

(e) (Continued)

- (2) Resources of a business that are ~~separate and~~ identifiable, such as/ ~~but not limited to/~~ funds in a checking or savings account, whether maintained exclusively for ~~the~~ business/ purposes or commingled with nonexcluded funds, shall be excluded from resources to the extent that the funds represent averaged self-employment income and the funds necessary to produce that income, for the period of time over which the funds have been averaged as specified in Section 63-503.412 ~~shall be considered except resources until such time as they are commingled or become unidentifiable.~~ (Continued)

HANDBOOK BEGINS HERE

(A) For example:

A farmer receives gross income of \$4500 from the sale of his crop. The money is deposited into his joint business/ personal checking account which already contains \$500 in personal funds. The personal funds are an includable resource for food stamps because they are not essential to the farmer's business. The \$4500 is not includable as a resource for two reasons. First, the gross amount less expenses of \$1500 has already been counted as income in accordance with Section 63-503.41. \$250 has been determined as the monthly average of the net annual income, \$3000 (\$3000 divided by 12 months). Secondly, the money is essential to the farmer's business.

HANDBOOK ENDS HERE

(3) (Continued)

.4 Handling of Excluded Funds (Continued)

.5 Resource Values (Continued)

.52 Handling of Licensed Vehicles (Continued)

- .524 In the event a licensed vehicle is assigned both a fair market value in excess of \$4,500 and an equity value, only the greater of the two amounts shall be counted as a resource.

HANDBOOK BEGINS HERE

- (a) For example, a second car which is not used by a household member to go to work will be evaluated for both fair market value and for equity value. If the fair market value is \$5,000 and the equity value is \$1,000 the household shall be credited with only the \$1,000 equity value, and the \$500 excess fair market value will not be counted.

- .525 In summary, each licensed vehicle shall be handled as follows: First, it will be evaluated to determine if it is ~~exempt~~ excluded as specified in Section 63-501.521. If not ~~exempt~~ excluded, it will be evaluated to determine if its fair market value exceeds \$4,500. If worth more than \$4,500, the portion in excess of \$4,500 for each vehicle will be counted as a resource. The vehicle also will ~~also~~ be evaluated to see if it is ~~equity~~ exempt from equity valuation for reasons such as the household's only vehicle or necessary for employment reasons as specified in Section 63-501.523. If not equity exempt, the equity value will be counted as a resource. If the vehicle has a countable market value of more than \$4,500 and also has a countable equity value, only the greater of the two amounts shall be counted as a resource.

HANDBOOK ENDS HERE



.526 Determining Value of Licensed Vehicles

TABLE 1

Step 1	Step 2	Step 3
Totally exclude if:	Determine Fair* Market Value (FMV)	Determine Equity Value* if Not <del>Exempt</del> <u>Excluded</u> for the Following Reasons:
1. Income producing (over 50%)	1. Use "blue book" for wholesale basic value	1. <del>Exempt</del> <u>Excluded</u> under Step 1
2. Annually producing income consistent with FMV	2. If above cannot be used, then use:	2. One car, regardless of use
3. Necessary to employ- ment other than daily commuting, e.g., traveling salesman	.Household verifi- cation .Newspaper ad .Tax assessment .Other reliable sources	3. Used to accept or continue employment
4. Household home		4. Used to seek or attend training or education preparatory to employment
5. Used to transport a physically disabled household member		

TABLE 1 (Continued)

Step 1	Step 2	Step 3
Totally exclude if:	Determine Fair* Market Value (FMV)	Determine Equity Value* if Not <del>Exempt</del> Excluded for the Following Reasons:
6. Previously used as income producing by household member self-employed in farming. Exclude for 1 year period from date of termination of self- employment in farming.		
IF NONE OF THE ABOVE GO TO STEP 2	COUNT ONLY THE EXCESS OVER \$4500 FOR EACH VEHICLE AND IF THE TOTAL EXCESS DOES NOT EXCEED THE HOUSEHOLD'S MAXIMUM ALLOWABLE RESOURCE LIMIT THEN GO TO STEP 3	IF THE FMV AND EQUITY ARE DETERMINED FOR ANY ONE VEHICLE, ONLY THE GREATER OF THE TWO AMOUNTS SHALL BE COUNTED TOWARD THE HOUSEHOLD'S RESOURCE LIMITS

\* Equity value equals FMV less encumbrances.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, 11209 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 18901, and 18904 Welfare and Institutions Code; 7 CFR 272.8(e)(17); ~~and~~ 7 CFR 273.2(j)(4); and 7 CFR 273.8(h); Public Law (P.L.) 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987; P.L. 101-201; P.L. 101-508, Section 11111(b); P.L. 101-624, Section 1715; P.L. 102-237, Section 905, as specified in Federal Administrative Notice 92-12, dated January 9, 1992; Section 2466d, Title 20, United States Code (U.S.C.); 26 U.S.C. 32(j)(5); 42 U.S.C.A. 5122 as amended by P.L. 100-707, Section 105(i); U.S.D.A. Food and Nutrition Service Administrative Notice 91-30; and Index Policy Memo 90-22, dated July 12, 1990.

Amend Section 63-502 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS

63-502

.1 Income Definition (Continued)

.14 Unearned income shall include, but not be limited to: (Continued)

.149 Monies that are legally obligated and otherwise directly payable to the household, but which are diverted by the provider of the payment to a third party for a household expense shall be counted as income and not excluded as a vendor payment. The distinction is whether the person or organization making the payment on behalf of a household is using funds that otherwise would have to be paid to the household.

(a) This does not apply to payments made to landlords or mortgagees by the Department of Housing and Urban Development (HUD). HUD payments are excluded from income as a vendor payment. Such payments include housing and/or utility payments. (Continued)

.2 Income Exclusions. Only the following items shall be excluded from household income: (Continued)

(d) Any prospectively budgeted income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 in a quarter. (Continued)

Authority Cited: Sections 10553, 10554, 11209 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 18901, and 18904, Welfare and Institutions Code; Public Law (P.L.) 101-201; P.L. 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987; P.L. 100-77; 7 CFR 271.2; 7 CFR 273.7(f); 7 CFR 273.9; 7 CFR 273.9(b)(1) and (c), 7 CFR 273.9(c)(1) and (i), and (iv)(B), and (c)(3); 7 CFR 273.9(c)(5); 7 CFR 273.9(c)(5)(i)(A); 7 CFR 273.9(c)(5)(i)(C), (F) and (G) and (ii)(A); 7 CFR 273.9(c)(10); 7 CFR 273.9(c)(15); 7 CFR 273.9(d)(3)(vii); 7 CFR 273.9(d)(1) through (6); 7 CFR 273.11(d)(1), (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal Feb. 1, 1990) \_\_\_\_\_ F. Supp. [Dock. No. CV-89-0768]); P.L. 101-508, Section 11111(b); 7 U.S.C. 2014(d); 7 U.S.C. 2015(e); 20 U.S.C. 2466d.; 26 U.S.C. 32(j)(5); U.S.D.A. Food and Nutrition Service Office, Western Region, Administrative Notice 88-40, Indexed Policy Memo 88-10, dated April 20, 1988; U.S.D.A. Food and Nutrition Service Office, Western Region, Administrative Notice 91-24, dated January 24, 1991; and U.S.D.A. Food and Nutrition Service Administrative Notice 91-30; and Waiver Letter WFS-100: FS-10-6-CA, dated October 2, 1990, United States Department of Agriculture, Food and Nutrition Service.

Amend Section 63-503 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS

63-503

.1 Month of Application (Continued)

.13 A household's benefit level for a) the initial month of certification, or b) the first month for which the household is certified for participation in the Food Stamp Program following any period during which the household was not certified for participation, shall be prorated from the date the application is received in the appropriate office, except for migrant and seasonal farmworker households. Migrant and seasonal farmworker households which have a break in participation of 30 days or less shall not have their benefits prorated. They shall receive benefits for the whole month.

.131 Using a calendar or fiscal month, households shall receive benefits prorated from the date of application to the end of the month. The CWDs shall either:

(a) Refer to Handbook Section 63-1101 for Reciprocal Table for computing first month benefits/; or

(b) Use the following formula:

$$\frac{\text{full month's benefits}}{\text{benefits}} \times \frac{\begin{array}{c} \text{(number of days in month + 1} \\ \text{- date of application)} \end{array}}{\text{number of days in month}} = \text{allotment}$$

.132 (Continued)

.2 (Continued)

.24 (Continued)

.242 Determining Income (Continued)

(c) Averaging Income (Continued)

(2) Households which derive income by contract or self-employment, shall ~~not~~ have that income averaged. This does not apply to a migrant or seasonal farmworker household. (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 CFR 271.2; 7 CFR 272.3(c)(1)(ii); 7CFR 273.1(b)(2)(iii); 7 CFR 273.2(j)(4); 7 CFR 273.10(a)(1)(iii)(B); 7 CFR 273.10(c)(2)(iii) and (c)(3)(ii); 7 CFR 273.11(a)(2)(i), (c), (c)(1), (c)(2)(iii), (c)(3)(ii), (d)(1), and (e)(1); 7 CFR 273.21(f)(2)(ii), (iii), (iv), and (v), (g)(3), (j)(1)(vii)(B), and (s); (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1, 1990) \_\_\_\_\_ F. Supp. \_\_\_\_\_ [Dock. No. CV-89-0768]); Waiver Letter WFS-100:FS-10-6-CA, dated October 2, 1990, United States Department of Agriculture, Food and Nutrition Service; Administrative Notice No. 92-23, dated February 20, 1992; and P.L. 101-624.

Amend Section 63-504 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY (Continued)

63-504

.3 Monthly Reporting (Continued)

.39 Mass Changes (Continued)

.392 Mass Changes in Public Assistance

- (a) When the CWD makes an overall adjustment to ~~public assistance~~ AFDC, RCA, ECA, or GA/GR payments, corresponding adjustments in household's food stamp benefits shall be handled as a mass change. When the CWD has at least 30 days' advance knowledge of the amount of the ~~public assistance~~ AFDC, RCA, ECA, or GA/GR adjustments, the CWD shall recompute food stamp benefits to be effective in the same month as the ~~public assistance~~ AFDC, RCA, ECA, or GA/GR changes. If the CWD does not have sufficient notice, the food stamp change shall be effective not later than the month following the month in which the ~~public assistance~~ AFDC, RCA, ECA, or GA/GR changes were made.
- (b) A Notice of Adverse Action is not required when a household's food stamp benefits are reduced or terminated as a result of a mass change in the ~~public assistance~~ AFDC, RCA, ECA, or GA/GR grants. However, the CWD shall send individual notices to households to inform them of the change. If a household requests a fair hearing, benefits shall be continued at the former level only if the issue being appealed is that food stamp eligibility or benefits were improperly computed.
- (c) ~~The CWD shall handle mass changes to General Assistance (GA) payments in the same manner as public assistance adjustments.~~ (Continued)

Authority Cited: Sections 10554, 11265.1, and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 CFR 271.2; 7 CFR 273.2(j)(3) and (j)(4); 7 CFR 273.8(b); 7 CFR 273.21(e)(1), (f)(1)(iii), (f)(1)(iv)(B), (h)(3), (h)(3)(ii), (j), (j)(1)(vi), and (r); 7 CFR 274.10; and P.L. 101-624.

Amend Section 63-802 to read:

63-802 RESTORATION OF LOST BENEFITS (Continued)

63-802

.5 Computing the Benefit to be Restored (Continued)

.54 If a claim against a household is unpaid, suspended or terminated as provided in Section 63-801.5, the amount to be restored shall be offset against the amount due on the claim before the balance, if any, is restored to the household.

.541 When a household is certified and receives ~~the~~ an initial allotment ~~for the initial months/~~ is paid retroactively, this initial allotment shall not be reduced to offset claims/ even if the allotment is paid retroactively. (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 54 Federal Register 30, Table of Redesignations (Part 274), p. 6991 and 7 CFR 273.17(d)(4).

# RESUBMITTAL

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-81)

AGENCY

California Department of Social Services

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z92-0224-01	REGULATORY ACTION NUMBER 93-0818-03R	EMERGENCY NUMBER	AGENCY FILE NUMBER (If any) RDB# 0590-23	PREVIOUS REGULATORY ACTION NUMBER 93-0304-03S
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For use by Office of Administrative Law (OAL) only



FILED

In the office of the Secretary of State of the State of California

SEP 30 1993

At 3:50'clock P.M.

MARCH FONG EU, Secretary of State

By Douglas S. Jung  
Deputy Secretary of State

NOTICE

REGULATIONS

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Foster Family Agencies		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 92#10-2	PUBLICATION DATE 3-6-92	

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

#### 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S)	ADOPT	See Attached Sheet
22	AMEND	See Attached Sheet
SECTIONS AFFECTED	REPEAL	See Attached Sheet

#### 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☒ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

#### 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

January 25, 1993 - February 10, 1993 and July 21, 1993 - August 5, 1993

#### 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other (Specify)

#### 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

#### 6. CONTACT PERSON

Jim Rhoads, Assistant Bureau Chief, Regulations Development Bureau

#### TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

AUG 17 1993



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt

Chapter 1, ~~Section 88000~~; and Chapter 8.8, Sections 88000, 88001, 88005, 88008, 88009, 88010, 88018, 88019, 88019.1, 88022, 88030, 88031, 88033, 88035, 88044, 88044.5, 88045, 88050, 88051, 88061, 88064, 88065, 88065.2, 88065.3, 88065.4, 88065.5, 88066, 88068, 88068.1, 88068.2, 88068.3, 88068.4, 88069, 88069.1, 88069.2, 88069.7, 88070 and 88087.

Amend

~~880036~~

1 89001, 89004, 89013, 89016, 89019, 89034, 89037, 89040, 89101, 89107, 89110, 89113, 89116, 89119, 89122, 89125, 89128, 89131, 89134, 89140, 89143, 89146, 89149, 89152, 89155, 89158, 89161, 89164, 89173, 89179, 89182 and 89221.

Repeal

89010, 89104, 89167, 89176, 89185, 89188, 89191, 89194, 89197, 89200, 89203, 89206, 89209, 89212, 89215 and 89218.

Amend Section 80036(e) to read:

80036 APPLICATION/RENEWAL PROCESSING FEES (Continued)

80036

(e) The application/renewal processing fee shall be nonrefundable except as provided in Government Code Section 15378.

Authority Cited: Sections 1523, 1524 and 1530, Health and Safety Code.

Reference: Sections 1523 and 1524, Health and Safety Code; and Section 15378, Government Code.

Adopt new Chapter 8.8, Article 1, and Section 88000 to read:

CHAPTER 8.8 FOSTER FAMILY AGENCIES

ARTICLE 1. GENERAL REQUIREMENTS AND DEFINITIONS

88000      GENERAL

88000

- (a) Foster family agencies as defined in Section 88001(f)(1) shall be governed by the provisions in this chapter. In addition, such foster family agencies, except where specified otherwise in this chapter, shall be governed by Chapter 1, General Licensing Requirements.
- (b) Where the term, "facility," is used in Chapter 1, General Licensing Requirements, it includes all components of a foster family agency program including its administrative function, the operation of certified family homes and the subsequent placement of children.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1502, 1506 and 1530, Health and Safety Code.

Adopt new Section 88001 to read:

88001 DEFINITIONS

88001

In addition to Section 80001, the following shall apply:

- a. (1) "Administrative Office" means the central administrative headquarters of the foster family agency and specified on the license(s) as such.
- (2) "Administrator" means the person designated by the Board of Directors to be responsible for the operation of the foster family agency.
- b. (Reserved)
- c. (1) "Caseload" means the total number of children assigned to a foster family agency employee.
- (2) "Certificate of Approval" means the document issued by a licensed foster family agency which authorizes a home to operate as a certified family home to be used exclusively by that foster family agency.
- (3) "Certified Family Home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.
- (4) "Certified Parent" means the adult(s) residing in the home certified by the foster family agency to provide care and supervision to children placed exclusively by that foster family agency.
- (5) "Client" means each individual child placed with the foster family agency.
- (6) "Complaint" means any notice of an alleged violation of any regulation or statute of this state, including but not limited to, Title 22 regulations and Penal Code violations.
- d. (Reserved)
- e. (Reserved)
- f. (1) "Foster Family Agency" means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, certified parent(s), or in finding homes for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.
- (2) "Foster Family Home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(3). "Full-Time" means employment of a total of 40 hours for one week or a total of 173 hours for one month.

g. (1) "Geographic Area" means the area served by the foster family agency administrative office and suboffice(s), if any.

h. through m. (Reserved)

n. (1) "Nontreatment Agency" means any foster family agency that certifies a home for placement of a child(ren) pending the adoption of the child(ren) by that family. A nontreatment agency does not provide therapeutic services such as those specified in the definition of a treatment agency at Section 88001t.(1).

o. (Reserved)

p. (1) "Private Foster Family Agency" means a foster family agency organized and operated as a nonprofit corporation and not part of any governmental entity.

(2) "Public Foster Family Agency" means a governmental entity designated by the appropriate governing body as an agency through which foster family agency services shall be offered.

q. (Reserved)

r. (Reserved)

s. (1) "Social Work Personnel" means employees who provide those services specified in Section 88065.3.

(2) "Suboffice" means any additional office set up by the foster family agency to supplement the services provided by the administrative office.

t. (1) "Treatment Agency" means any foster family agency that provides therapeutic services to children who reside in certified family homes. The services, which are identified by social work staff assessing the child(ren)'s needs, may include, but not be limited to, education and mental health services, sexual or physical abuse counseling, alcohol or drug abuse counseling, and vocational training, and determining the appropriate individual case plan to ensure those needs are met.

u. through z. (Reserved)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1502, 1506, 1530, 1530.5 and 1538, Health and Safety Code.

Adopt new Article 2 and Sections 88005 and 88005(a), renumber Section 89001(a) to 88005(a)(1) and amend, and renumber Sections 89004(b)(1) and (2) to Sections 88005(a)(1)(A) and (B) and amend to read:

ARTICLE 2. LICENSE

88005 LICENSE REQUIRED

88005

(a) In addition to 80005, the following shall apply:

(1) No individual, organization or county governmental entity shall engage in finding recruiting and certifying homes of other facilities for placement of persons of any age children for temporary or permanent care without first obtaining a license from the department licensing agency.

(1A) County Homefinding Agency. A county homefinding public foster family agency shall be designated by the board of supervisors appropriate governing body as a county public foster family agency through which homefinding services will be offered.

(2B) Private Homefinding Agency. A private homefinding foster family agency shall be a corporation organized and operated on a nonprofit philanthropic basis.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1502, 1508 and 1530, Health and Safety Code.

Adopt new Section 88008 to read:

88008 LICENSING OF INTEGRAL PROGRAM COMPONENTS

88008

- (a) Notwithstanding Section 80008, the licensing agency shall have the authority to issue separate licenses to a single foster family agency to operate its program in various regions of the state as determined by the Department.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1509, 1530 and 1534, Health and Safety Code.



Adopt new Section 88009 to read:

88009 POSTING OF LICENSE

88009

(a) The current, valid license(s) shall be posted in a prominent, publicly accessible location in the administrative office and copies of the applicable license shall be posted in each suboffice of the foster family agency.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Section 1508, Health and Safety Code.

Adopt new Section 88010 to read:

88010    LIMITATIONS ON LICENSE

88010

(a) In addition to Section 80010, the following shall apply:

- (1) The license shall specifically indicate whether the foster family agency is authorized to operate a treatment and/or nontreatment program.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1506 and 1508, Health and Safety Code.

Adopt new Article 3 and Section 88018 to read:

ARTICLE 3. APPLICATION PROCEDURES

88018 APPLICATION FOR LICENSURE

88018

- (a) In addition to Section 80018, excluding Sections 80018(d)(6) and (13), the following shall apply:
- (1) The application shall be filed with the licensing agency designated to serve the foster family agency proposed geographic area of service.
  - (2) The application shall be signed by the chief executive officer or other authorized member of the Board of Directors and shall be accompanied by written authorization of the governing board granting him/her authority to apply for the license.
  - (3) The application shall contain a written resolution from the governing board stating that it shall operate the foster family agency program in full conformity with applicable statutes and regulations.
  - (4) A private foster family agency shall submit copies of its articles of incorporation, bylaws (which must include provisions for control by a responsible governing board), annual statement filed with the Secretary of State, corporate charter (if applicable) and evidence certifying nonprofit status.
  - (5) The Board of Directors shall perform each of the responsibilities described in this section and the application shall include a written statement describing the manner in which the Board of Directors shall:
    - (A) Establish and implement policies and procedures governing the operation of the foster family agency.
    - (B) Develop and approve a budget for the foster family agency.
    - (C) Access and maintain the level of funds necessary to cover the costs of operating the foster family agency.
    - (D) Adopt a plan of operation and program statement for the foster family agency that will ensure the services provided by the foster family agency correspond to the needs of the community.
    - (E) Employ an administrator who meets the requirements of Sections 88064 and 88065.
    - (F) Complete a written statement describing the duties delegated to the administrator.
    - (G) Ensure that a copy of the written statement referenced in Section 88018(a)(5)(F) above shall be given to the administrator and that a copy will be maintained in the foster family agency file.

- (H) Review all licensing and incident reports provided to the Board of Directors by the administrator and, based upon such review, ensure that the foster family agency thereafter complies with all applicable regulations.
  - (I) Conduct board meetings on at least a quarterly basis to review the operation of the foster family agency.
  - (J) Require that the administrator be present at all Board of Directors meetings during which the operation or the policies of the foster family agency are discussed.
  - (K) Ensure that minutes are kept for all Board of Directors meetings and retained by the foster family agency as a permanent record of all board meetings.
  - (L) Ensure that all minutes for Board of Directors meetings are available for review by the licensing agency and include an acknowledgment by the board members that they have received, reviewed, and discussed the licensing and incident reports provided to the Board of Directors by the administrator.
  - (M) Submit copies of all corporate documents to the licensing agency at the time documents are submitted to the Secretary of State.
- (6) The application shall include a written plan of operation as defined in Section 88022.
  - (7) As a requirement for licensure, the chief executive officer or other authorized member of the Board of Directors and the administrator shall attend an orientation given by the licensing agency which outlines the applicable rules and regulations for operation of a foster family agency.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1520, 1525.3 and 1530, Health and Safety Code.

Adopt new Section 88019 to read:

88019 CRIMINAL RECORD CLEARANCE

88019

(a) In addition to Section 80019, the following shall apply:

- (1) Prior to certification by the foster family agency a criminal record clearance must be obtained for all certified family home applicants and all other adults residing in the home.
  - (A) Fingerprint cards and the Child Abuse Index Checks (LIC 198 [10/89]) shall be submitted directly to the State Department of Justice by the foster family agency.
- (2) The foster family agency shall directly submit to the State Department of Justice fingerprint cards for all foster family agency personnel who have direct contact with children in accordance with Health and Safety Code Section 1522(b).
- (3) Subsequent to certification, any person subject to criminal record review pursuant to Health and Safety Code Section 1522 shall, prior to employment, residence or initial presence in the certified family home, be fingerprinted and sign a declaration regarding any prior criminal convictions.
  - (A) The foster family agency shall submit the fingerprint cards to the State Department of Justice within four calendar days after employment, residence or initial presence in the home.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1522 and 1522.07, Health and Safety Code.

Adopt Section 88019.1 to read:

88019.1 CHILD ABUSE INDEX CLEARANCE

88019.1

- (a) Prior to certification by the foster family agency, a Child Abuse Index Clearance (LIC 198 [10/89]), as required by Health and Safety Code Section 1522.1, shall be obtained for all certified family home applicants and all other adults residing in the home.
  - (1) Child Abuse Index Checks (LIC 198 [10/89]) and the fingerprint cards shall be submitted directly to the State Department of Justice by the foster family agency.
- (b) The foster family agency shall directly submit to the State Department of Justice Child Abuse Index Checks (LIC 198 [10/89]) for all foster family agency personnel who have direct contact with children in accordance with Health and Safety Code Section 1522.1.
- (c) Subsequent to certification, any person subject to Child Abuse Index Clearance shall, prior to employment, residence or initial presence in the certified family home, complete the index check.
  - (1) The foster family agency shall submit the index checks and the fingerprint cards directly to the State Department of Justice.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Section 1522.1, Health and Safety Code.

Adopt new Section 88022 to read:

88022     PLAN OF OPERATION

88022

- (a) In addition to Section 80022, excluding Sections 80022(b)(7), (8) and (9), the plan of operation shall contain the following:
- (1) A description of the administrative organization, including the parent organization, if applicable.
  - (2) The location, including street address and mailing address, if different, for the administrative office and all suboffices.
  - (3) Complete job descriptions of all foster family agency positions, including number, classification, qualifications and duties, and information regarding lines of authority and staff responsibilities.
  - (4) A comprehensive program statement including:
    - (A) Goals of the foster family agency program.
    - (B) The types of children to be served.
    - (C) A description of the services to be provided to children, certified parent(s) and foster family home licensee(s) including the treatment services to be provided by the foster family agency program.
    - (D) A description of emergency response services to be provided by the foster family agency including weekends, holidays and evenings.
  - (5) A written description of the foster family agency training plan including:
    - (A) Employee orientations and ongoing training.
    - (B) Initial and ongoing training of certified parent(s), including training in child abuse identification, prevention, and treatment.
    - (C) Initial and ongoing training in child abuse identification, prevention, and treatment for foster family agency personnel who provide services to children, certified parent(s), and foster family home licensee(s).
    - (D) The types of training to be provided, who will conduct the training, and who will attend.
  - (6) A statement regarding how the foster family agency will coordinate with community resources.

- (7) A description of the procedures the foster family agency will follow when investigating complaints as specified in Sections 88050 and 88051.
- (8) Procedures for the development, review, implementation and modification of the needs and services plan for children placed with the foster family agency.
- (9) Procedures for the development, maintenance and implementation of removal and discharge procedures for children placed with the foster family agency.
- (b) The foster family agency shall develop and maintain current administrative records that include an index of the location of all children in placement and all certified family homes and licensed foster family homes used by the foster family agency.

Authority Cited: Section 11174.1, Penal Code; and Section 1530, Health and Safety Code.

Reference: Section 11174.1, Penal Code; and Sections 1502, 1506 and 1530, Health and Safety Code.



Adopt new Article 4 and Section 88030(b), renumber Section 89188 to 88030(a), (c), and (e) and amend, and renumber Section 89203 to 88030(d) and amend to read:

ARTICLE 4. CERTIFICATION AND USE OF HOMES

88030 IDENTIFICATION OF CERTIFIED FAMILY HOMES

88030

- (a) Each certified family ~~nonlicensed~~ home used by in the exclusive use of a licensed foster family ~~homefinding~~ agency shall be provided with a Certificate of Approval, properly completed and signed by the administrator ~~executive or other representative~~ of the foster family agency or his/her designee.
- (b) The Certificate of Approval shall include the following:
- (1) The capacity for which the home has been certified.
  - (2) The age range of children to be served.
  - (3) Any limitations of the home, including ambulatory status.
  - (4) Any preferences requested by the home.
  - (5) Date of issuance.
  - (6) Date of expiration not to exceed one year from the date of issuance.
- (c) A copy of the Certificate of Approval shall be kept in the certified family home case records maintained by the foster family agency for each home.
- (d) A Certificate of Approval is not transferable and shall be ~~nullified~~ void upon a change of location or ~~management~~ certified parent(s) except under emergency conditions as specified in Section 88033.
- (e) Certified family ~~Exclusive use~~ homes shall conform to the regulations for "General Licensing Requirements," Chapter 1, ~~Article 11~~ commencing with Section 80000; and "Small Family Homes," Chapter 4, commencing with Section 83000, excluding Sections 83032, 83068.1, 83068.2, and 83068.3.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1502, 1506, 1530 and 1530.5, Health and Safety Code.

Adopt new Section 88031(b), and renumber Sections 89191(a) and (b) to 88031(a) and amend to read:

88031 NOTIFICATION

88031

(a) ~~The foster family homefinding agency shall notify the Department of the~~ licensing agency of each certified family foster home approved for exclusive use/ and each certified family foster home rejected after study and each foster home for which exclusive use is being terminated.

(1) The notification shall be submitted within 30 calendar days after approval or termination.

(b) The foster family agency shall notify the licensing agency of the address(es) of its suboffice(s) and the address(es) of all homes certified by the suboffice(s).

(b) ~~Notification by the homefinding agency shall be within 30 days after action to approve/ reject or terminate the use of the foster home/~~

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1506 and 1530, Health and Safety Code.

Renumber Section 89206 to 88033 and amend to read:

88033      EMERGENCY CONDITION - CONTINUATION OF CERTIFICATION

88033

(a) The foster family ~~homefinding~~ agency may consent to a change of location and continuation under the existing Certificate of Approval of any certified family ~~exclusive use foster~~ home, when the change is required because of the destruction of the premises or similar emergency conditions/ so long as the new location or place of ~~performance~~ residence conforms to all requirements ~~current standards of fire safety/ sanitations/ health and other conditions~~.

(1) The foster family agency shall verify compliance with applicable statutes and regulations by conducting a site visit to the new location.

Authority Cited:    Section 1530, Health and Safety Code.

Reference:            Sections 1506, 1530 and 1531, Health and Safety Code.

Adopt new Section 88035 to read:

88035 USE OF COUNTY LICENSED FOSTER FAMILY HOMES

88035

- (a) A foster family agency shall place in a county licensed foster family home as provided:
- (1) Foster family agencies shall not use foster family homes licensed by a county without the approval of the licensing county. When approval is granted, a written agreement between the foster family agency and the county shall specify the nature of administrative control and case management responsibility and the nature and number of children to be served in the home.
  - (2) Before a foster family agency may use a licensed foster family home it shall review and, with the exception of a new fingerprint clearance, qualify the home in accordance with Health and Safety Code Section 1506.
  - (3) When approval is given, and for the duration of the agreement permitting the foster family agency use of its licensed foster family home, no child shall be placed in that home except through the foster family agency.
  - (4) Nothing in this section shall transfer or eliminate the responsibility of the placing agency for the care, custody, or control of the child. Nothing in this section shall relieve a foster family agency of its responsibilities for or on behalf of a child placed with it.
- (b) The county licensing agency shall continue to monitor the home as a licensed foster family home and shall maintain authority over all licensing activities.
- (c) The foster family agency shall approve the county licensed foster family home by documenting that the home is willing and able to meet any additional conditions required by the foster family agency in order to provide the appropriate level of services to the children placed in that home.
- (d) The foster family agency shall provide social work services to both the foster parents and children placed by the foster family agency into a county licensed foster family home.
- (e) The foster family agency shall maintain the following material on file for all county licensed foster family homes utilized by the agency for placement:
- (1) A copy of the written agreement between the county licensing agency and the foster family agency as provided in Health and Safety Code Section 1506.5(a)
  - (2) A copy of the foster family home license.

- (3) A copy of the written agreement with the foster family home licensee documenting that it is willing and able to conform to all foster family agency conditions imposed upon the home.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1506, 1506.5 and 1530, Health and Safety Code.

Adopt new Article 5 and Section 88044 to read:

ARTICLE 5. ADMINISTRATIVE ACTIONS

88044 INSPECTION AUTHORITY OF THE LICENSING AGENCY

88044

(a) In addition to 80044, the following shall apply:

- (1) The licensing agency has the authority to inspect certified family homes in compliance with Health and Safety Code Sections 1533 and 1534.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1506, 1530, 1530.5, 1533 and 1534, Health and Safety Code.

Adopt new Section 88044.5 to read:

88044.5 DECERTIFICATION AUTHORITY OF THE LICENSING AGENCY

88044.5

1a) The Department shall review the activities of a homefinding agency in selecting homes for its exclusive use. The Department may terminate its approval of the agency's authority in selection and use of foster homes exempt from license.

(a) If the licensing agency determines that a certified family home is out of compliance with applicable statutes and regulations, the licensing agency may require a foster family agency to decertify a certified family home.

(1) The certified family home may appeal the decertification to the Department and be provided an administrative hearing pursuant to Section 1551 of the Health and Safety Code.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530, 1534 and 1551, Health and Safety Code.

Adopt new Section 88045 to read:

88045      EVALUATION VISITS

88045

- (a) The licensing agency shall have the authority to inspect the certified family homes used by the foster family agency as often as necessary to ensure the quality of care being provided.
- (b) The licensing agency shall select the certified family homes to be inspected.
- (c) A representative of the foster family agency shall accompany the licensing evaluator on the inspection.
- (d) The foster family agency shall inform the certified family homes at the time of certification of the licensing agency authority to conduct inspections of the certified family homes as provided by Health and Safety Code Section 1534.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530, 1530.5, 1533 and 1534, Health and Safety Code.



Adopt new Article 6 and Section 88050 to read:

ARTICLE 6. COMPLAINTS

88050 INVESTIGATIONS OF CHILD ABUSE OR NEGLECT COMPLAINTS

88050

- (a) The foster family agency shall investigate all complaints of child abuse or neglect as defined in Penal Code Sections 11165.2 and 11165.6.
  - (1) When possible, joint visits by foster family agency staff, placement workers, and other investigative agencies or persons shall be conducted as necessary to complete the complaint investigation.
- (b) The foster family agency shall, in addition to meeting the requirements set forth in Penal Code Section 11166 et seq., notify the licensing and placement agencies by telephone by the next working day following receipt of the complaint.
- (c) Upon receipt of a complaint, the foster family agency shall make a site visit to the certified family home within ten calendar days after receiving the complaint, except in the following situations:
  - (1) A site visit shall be conducted within 24 hours when there is reason to believe that a child(ren) is in imminent danger.
  - (2) A law enforcement officer is conducting a criminal investigation and requests the foster family agency to postpone the site visit within the ten-day period.
  - (3) The foster family agency determines the site visit would jeopardize its investigation and/or endanger the health and safety of the children.
    - (A) Prior licensing approval shall be obtained before postponement of any site visit as described in Section 88050(c)(2) and (3) above.
- (d) The foster family agency shall not identify the complainant to the certified family home unless permission has been granted by the complainant.
- (e) The investigation shall include, but not be limited to:
  - (1) Interviews with all known victim(s), witness(es), and suspect(s).
    - (A) Victim(s) and witness(es) shall be interviewed in person and away from the certified family home.
      - 1. If it is not possible or desirable for the interview to be conducted away from the certified family home, the foster family agency shall document why this did not occur.
  - (2) Obtaining copies of all related reports from other investigative agencies, if available, and any medical reports.

- (f) A written report shall be submitted to the licensing agency and the placement agency relating the findings of the investigation and actions taken within ten days after the complaint investigation has been completed.
- (1) The report shall include the following:
- (A) List of the complaint allegation(s).
  - (B) Identification of the person(s) who conducted the investigation.
  - (C) Name(s) of other agencies or persons who were contacted and/or involved in the investigation.
  - (D) The person(s) contacted at the certified family home.
  - (E) Summary of the investigation.
  - (F) Rationale for the action taken.
- (2) The foster family agency shall make one of the following determinations after completion of each complaint investigation:
- (A) Substantiated (S) - if it has been determined that the alleged incident(s) did occur.
  - (B) Inconclusive (I) - if it has been determined that the alleged incident(s) may have occurred but cannot be proven.
  - (C) Unfounded (U) - if it has been determined that the alleged incident(s) could not or did not occur.
- (g) Upon substantiation of a complaint, the foster family agency shall ensure action is taken against the certified family home, which may include removal of the child(ren), removal of another household member or decertification of the home, even though there were not sufficient grounds to warrant criminal prosecution.
- (h) The foster family agency administrator shall ensure copies of all complaint investigation reports alleging child abuse or neglect are provided to the Board of Directors.
- (i) The foster family agency shall maintain a copy of all investigative reports and a log of all complaints received which shall include:
- (1) The name of the certified family home involved.
  - (2) The complaint allegation(s).
  - (3) The date the complaint was received.
  - (4) The date the complaint visit was conducted.

- (5) The date the complaint was resolved.
- (6) The findings after completion of the complaint investigation, including a determination of substantiated, inconclusive or unfounded.
- (7) The action taken as specified in paragraph (f) above.
- (j) The licensing agency has the authority to conduct a separate complaint investigation of a certified family home.

Authority Cited: Section 11174.1, Penal Code; and Section 1530, Health and Safety Code.

Reference: Section 11174.1, Penal Code; and Sections 1530 and 1533, Health and Safety Code.

Adopt new Section 88051 to read:

88051     INVESTIGATION OF COMPLAINTS OTHER THAN CHILD ABUSE OR  
NEGLECT

88051

- (a) The foster family agency shall investigate all other complaints regarding certified family homes.
- (b) Upon receipt of a complaint, the foster family agency shall inspect the certified family home within ten calendar days after receiving the complaint.
- (c) The foster family agency shall not identify the complainant to the certified family home unless permission has been granted by the complainant.
- (d) A written report of the investigation and findings and the action taken shall be maintained in the certified family home file at the foster family agency.
  - (1) The report shall include the following:
    - (A) List of the complaint allegation(s).
    - (B) Identification of the person(s) who conducted the investigation.
    - (C) The person(s) contacted at the certified family home.
    - (D) Summary of the investigation.
    - (E) Rationale for the action taken.
    - (F) Names of other agencies or persons who were contacted and/or involved in the investigation.
  - (2) The foster family agency shall make one of the following determinations after completion of each complaint investigation:
    - (A) Substantiated (S) - if it has been determined that the alleged incident(s) did occur.
    - (B) Inconclusive (I) - if it has been determined that the alleged incident(s) may have occurred but cannot be proven.
    - (C) Unfounded (U) - if it has been determined that the alleged incident(s) could not or did not occur.
- (e) The foster family agency administrator shall ensure copies of all substantiated complaints are provided to the Board of Directors.
- (f) The foster family agency shall take action to ensure that the affected certified family home complies with applicable statutes and regulations.

- (g) The foster family agency shall maintain a log of all complaints received which shall include:
- (1) The name of the certified family home involved.
  - (2) The complaint allegation(s).
  - (3) The date the complaint was received.
  - (4) The date the complaint visit was conducted.
  - (5) The date the complaint was resolved.
  - (6) The findings after completion of the complaint investigation, including a determination of substantiated, inconclusive or unfounded.
  - (7) The action taken as specified in paragraph (f) above.
- (h) The licensing agency has the authority to conduct a separate complaint investigation of a certified family home.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1506 and 1530, Health and Safety Code.

Adopt new Article 7 and Section 88061 to read:

ARTICLE 7. CONTINUING REQUIREMENTS

88061 REPORTING REQUIREMENTS

88061

(a) In addition to Section 80061, the following shall apply:

- (1) All foster family agency personnel are required to report suspected child abuse and neglect in accordance with Penal Code Sections 11164 et seq.
  - (A) All foster family agency personnel must sign a statement acknowledging his/her reporting responsibilities.
- (2) The foster family agency shall ensure that the child's authorized representative is notified no later than the next working day if the following circumstances have occurred without the authorized representative's participation:
  - (A) The child has been placed in a certified family home or licensed foster family home under emergency circumstances.
  - (B) The child has been removed from a certified family home or licensed foster family home under emergency circumstances.
- (3) The foster family agency shall ensure that the child's authorized representative is notified regarding the need for relocation of the child to another certified family home or licensed foster family home.
- (4) The foster family agency shall ensure that the child's authorized representative is notified if the child is not enrolled in or regularly attending school.
- (5) The foster family agency shall notify the licensing agency, within ten working days, of a change of administrator. Such notification shall include the following:
  - (A) The name and mailing and residence addresses of the new administrator.
  - (B) Date the administrator assumed the position.
  - (C) Verification of the administrator's required education, experience, and qualifications.
    1. A photocopy of the transcript shall be permitted.

Authority Cited: Section 11174.1, Penal Code; and Section 1530, Health and Safety Code.

Reference: Section 11174.1, Penal Code; and Section 1530, Health and Safety Code.

Adopt new Section 88064 to read:

88064 ADMINISTRATOR - QUALIFICATIONS AND DUTIES

88064

(a) In addition to Section 80064, the following shall apply:

(1) All foster family agencies shall have an administrator who shall meet one of the following requirements:

(A) A Master's Degree from an accredited or state approved graduate school, as defined in Section 94310 of the Education Code, in social work or social welfare, marriage, family and child counseling, counseling psychology, social psychology or equivalent education and experience as determined by the licensing agency. In addition, the administrator shall have demonstrated ability and leadership through a minimum of three years of experience in the field of child or family services, two years of which have been in an administrative or managerial position.

(B) A Bachelor's Degree in a behavioral science from an accredited college or university. In addition, the administrator shall have demonstrated ability and leadership through a minimum of five years of experience in the field of child or family services, two years of which have been in an administrative or managerial position.

(2) Foster family agency administrators hired prior to the effective date of this section who do not meet the education and experience requirements shall remain qualified, provided they have no break exceeding three consecutive years in employment as a foster family agency administrator.

(3) The administrator shall be responsible for the operation of the foster family agency.

(A) An assistant administrator(s) may be designated under specified circumstances including when the administrator is absent from the facility and shall be:

1. Knowledgeable of the foster family agency operations.
2. Trained in programs provided by the foster family agency.
3. Designated as the authorized person to correct deficiencies that constitute immediate threats to the health and safety of children in the foster family agency certified family homes.

(4) Additional duties of the administrator shall include:

(A) Appointing and dismissing staff.

(B) Attending all board meetings.

(C) Mailing copies of all licensing reports and incident reports to the Board of Directors.

(D) Organizing and carrying out a program of staff development for all staff members.

(b) The administrator may also serve in another personnel capacity provided he/she meets the applicable qualifications of both positions.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1531, Health and Safety Code.



Adopt new Section 88065 to read:

88065 PERSONNEL REQUIREMENTS

88065

(a) In addition to Section 80065, excluding Sections 80065(e), (f) and (j), the following shall apply:

(1) No foster family agency administrator, supervisor, social worker or Board of Director(s) member shall be a certified parent of the foster family agency with which he/she is affiliated.

(A) Individuals who have been certified prior to the effective date of this section shall be allowed to continue in that capacity until the children currently in placement are removed from the home.

1. Individuals shall not accept additional placements from the foster family agency after the effective date of this section.

(2) For any other employee or consultant of the foster family agency who is also a certified parent of that foster family agency there shall be a clear separation of that individual's employment responsibilities and his/her responsibilities as a certified parent.

(3) No administrator, supervisor or social worker employed by the foster family agency shall enter into any independent financial relationship or transaction with a certified parent of a home certified by the foster family agency, including but not limited to, rental agreements, personal cash loans, or sale, trade or transfer of property, unless:

(A) The independent financial relationship or transaction is found by the administrator and the Board of Directors to not represent a conflict of interest for the foster family agency or the individual; and

(B) The written finding and a full description of the relationship or transaction are recorded in both the personnel and certified family home files.

(4) All foster family agency personnel who have direct contact with children shall complete a minimum of one-hour training in the area of child abuse identification and reporting.

(5) All foster family agency personnel shall complete the training specified in Section 88022(a)(5).

(6) The foster family agency shall employ staff necessary to perform the duties as follow:

(A) An administrator as specified in Section 88064.

- (B) A social work supervisor meeting the qualifications specified in Section 88065.2.
- (C) Social work personnel meeting the qualifications specified in Section 88065.3 and the ratios outlined in Section 88065.5.
- (7) Each suboffice shall maintain social work personnel who meet requirements specified in Sections 88065.3 and 88065.4 to perform the functions of the suboffice.
- (8) The foster family agency shall have qualified social work personnel available on a 24-hour basis to respond to any emergencies within a two-hour period.
- (9) The foster family agency shall employ or retain professionals and consultants necessary to implement the plan of operation.

Authority Cited: Section 11174.1, Penal Code; and Section 1530, Health and Safety Code.

Reference: Section 11174.1, Penal Code; and Section 1530, Health and Safety Code.

Adopt new Section 88065.2 to read:

88065.2 SOCIAL WORK SUPERVISOR

88065.2

(a) Each social work supervisor in a foster family agency shall be responsible for, but not limited to, the following duties:

- (1) Orientation and training of new social work personnel.
- (2) Review and oversight of social work personnel casework.
- (3) Ensure that assigned social work personnel perform their duties in compliance with applicable laws, regulations, policies and procedures.

(b) Social work supervisors shall meet the following education and experience requirements:

- (1) A Master's Degree from an accredited or state approved graduate school, as defined in Section 94310 of the Education Code, in social work or social welfare, marriage, family, and child counseling, child psychology, child development, counseling psychology, or social psychology.
- (2) In addition to the degree specifications in Subsection (b)(1) above, all of the following coursework and field practice or experience shall be required of all new hires effective January 1, 1993:
  - (A) At least three semester units or 100 days of field practice or experience in a public or private social service agency setting at the Master's Degree level.
  - (B) At least nine semester units of coursework related to children and families or 18 months experience in working with children and families.
  - (C) At least three semester units in working with minority populations; six months of experience in working with minority populations; or six months in-service training in working with minority populations within the first year of employment as a condition of employment.
  - (D) At least three semester units in child welfare, or two years experience in a public or private child welfare social services setting.
- (3) Experience as follows:
  - (A) Three years of full-time social work or casework employment in the field of family or child welfare services; or

- (B) Two years of full-time social work or casework employment in a licensed foster family or adoption agency.
- (c) Social work supervisors who do not meet the Master's Degree requirements specified in Subsection (b)(1) above may be granted an exception provided he/she completes the coursework and field practice or experience requirements specified in Subsection (b)(2) above.
- (1) Exceptions granted by the Department prior to January 1, 1993, shall remain in effect.
- (d) Social work supervisors who are hired on or after January 1, 1992, but prior to January 1, 1993, who do not meet the requirements listed in Subsection (b)(2) above shall be required to successfully meet those requirements by December 31, 1994, in order to remain employed as a social work supervisor in a foster family agency.
- (e) Social work supervisors who were hired prior to January 1, 1992, shall not be required to meet the requirements of Section 88065.2 in order to remain employed in a foster family agency.
- (f) Documentation of the required education and experience requirements shall be maintained in the personnel file.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1506 and 1530, Health and Safety Code.

Adopt new Section 88065.3 to read:

88065.3 SOCIAL WORK PERSONNEL

88065.3

- (a) Social work personnel shall be employed to provide the social services of the foster family agency.
- (b) Social work personnel shall meet the following education and experience requirements:
  - (1) A Master's Degree from an accredited or state approved graduate school, as defined in Section 94310 of the Education Code, in social work or social welfare, marriage, family, and child counseling, child psychology, child development, counseling psychology or social psychology.
  - (2) In addition to the degree specifications in Subsection (b)(1) above, all of the following coursework and field practice or experience shall be required of all new hires effective January 1, 1993:
    - (A) At least three semester units or 100 days of field practice or experience in a public or private social service agency setting at the Master's Degree level.
    - (B) At least nine semester units of coursework related to children and families, or 18 months experience in working with children and families.
    - (C) At least three semester units in working with minority populations; six months of experience in working with minority populations; or six months in-service training in working with minority populations within the first year of employment as a condition of employment.
    - (D) At least three semester units in child welfare, or two years experience in a public or private child welfare social services setting.
- (c) Social work personnel who do not meet the Master's Degree requirements specified in Subsection (b)(1) above may apply for an exception provided he/she completes the coursework and field practice or experience requirements specified in Subsection (b)(2) above.
  - (1) Exceptions granted by the Department prior to January 1, 1993, shall remain in effect.
- (d) Social work personnel who are hired on or after January 1, 1992, but prior to January 1, 1993, who do not meet the requirements listed in this section shall be required to successfully meet those requirements by December 31, 1994, in order to remain employed as social work personnel in a foster family agency.

- (e) Social work personnel who were hired prior to January 1, 1992, shall not be required to meet the requirements of this section in order to remain employed in a foster family agency.
- (f) Documentation of the required education and experience requirements shall be maintained in the personnel file.
- (g) Social work personnel shall be responsible for the following:
  - (1) Orientations of potential certified family home applicants.
  - (2) Evaluation and assessment of the application of the potential certified family home.
  - (3) Evaluation and assessment of a child for placement and continued placement in a certified family home or licensed foster family home.
  - (4) Placement of the child in the certified family home or licensed foster family home.
  - (5) Development and updating of the needs and services plan.
  - (6) Supervision of the placement of the child including direct contact with the child and the certified parent(s) or foster family home licensee(s).
  - (7) Provision of support services to certified parents or foster family home licensees assigned to the social worker.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1506 and 1530, Health and Safety Code.

Adopt new Section 88065.4 to read:

88065.4 SOCIAL WORK SUPERVISOR/SOCIAL WORKER RATIOS

88065.4

(a) The foster family agency shall employ:

- (1) One full-time social work supervisor for every six social workers or fraction thereof in a treatment agency.
- (2) One full-time social work supervisor for every eight social workers or fraction thereof in a nontreatment agency.

(b) A social work supervisor may function as a social worker only under the following conditions:

- (1) When fewer than six social workers are supervised in a treatment agency, the supervisor shall be allowed to carry three cases in place of supervising one social worker.
- (2) When fewer than eight social workers are supervised in a nontreatment agency, the supervisor shall be allowed to carry three cases in place of supervising one social worker.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1531, Health and Safety Code.

Adopt new Section 88065.5 to read:

88065.5 SOCIAL WORKER RATIOS

88065.5

- (a) The foster family agency shall employ, for treatment agencies, one full-time social worker for every 15 children or fraction thereof in placement.
- (b) The foster family agency shall employ, for nontreatment agencies, one full-time social worker for every 25 children or fraction thereof in placement.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1531, Health and Safety Code.



Adopt new Section 88066 to read:

88066 PERSONNEL RECORDS

88066

(a) In addition to Section 80066, the following shall apply:

- (1) The foster family agency shall maintain the following personnel records:
  - (A) Documentation that the foster family agency personnel has completed the required training.
  - (B) Documentation that the foster family agency personnel meets the education and experience requirements specified in Sections 88064, 88065, 88065.2 and 88065.3.
  - (C) A record of performance evaluation and any correspondence with each employee.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1531, Health and Safety Code.

Adopt new Section 88068 to read:

88068    ADMISSION AGREEMENTS

88068

(a) In addition to Section 80068, the following shall apply:

- (1) The foster family agency shall complete and maintain current admission agreements with each certified parent(s) or foster family home licensee(s) with whom the child is placed.
  - (A) Agreements shall be dated and signed by the foster family agency and the certified parent(s) or foster family home licensee(s) prior to the placement of any child.
  - (B) The foster family agency shall retain the original copy of the agreement and shall provide copies to the certified family home or licensed foster family home.

Authority Cited:    Section 1530, Health and Safety Code.

Reference:        Sections 1530 and 1531, Health and Safety Code.

Adopt new Section 88068.1 to read:

88068.1 INTAKE PROCEDURES

88068.1

- (a) The foster family agency shall develop, maintain and implement intake procedures which meet the requirements specified in this section.
- (b) The following requirements shall be met within 30 calendar days of the child's placement in the home.
  - (1) The information specified in Sections 80070 and 88070 shall be obtained from the child's authorized representative(s).
    - (A) If the information is not completed by a placement agency, the foster family agency shall make telephone and/or written requests for the information to the child's placement agency and/or authorized representative, and shall record and retain the details of those requests.
    - (B) If the information is not received within 30 calendar days of the requests specified in Subsection (A) above, the foster family agency shall obtain from other sources the information necessary to complete the foster family agency appraisal form.
  - (2) When the information is received, social work personnel shall complete a needs and services plan as specified in Section 88068.2.
  - (3) The information specified in Subsections (b)(1) and (2) above shall be reviewed by the social work personnel to determine whether the foster family agency can provide the services necessary to meet the child's needs.
  - (4) If the child is accepted for placement, the following requirements shall be met:
    - (A) A foster family agency agreement shall be signed by the authorized representative(s) and the foster family agency as specified in Section 80068(c).
    - (B) The foster family agency shall develop an admission agreement that shall be dated and signed by the certified parent(s) or foster family home licensee(s) and the foster family agency as specified in Section 88068(a)(1).

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1531, Health and Safety Code.

Adopt new Section 88068.2 to read:

88068.2 NEEDS AND SERVICES PLAN

88068.2

(a) The needs and services plan shall identify the following:

- (1) Reason for placement.
- (2) Education.
- (3) Training.
- (4) Personal care and grooming.
- (5) Ability to manage his/her own money including the maximum amount of money the child shall be permitted to have in his/her possession at any one time.
- (6) Visitation, including the frequency of and any other limitations on visits to the family residence and other visits inside and outside the certified family home or licensed foster family home.
- (7) Other specific services, including necessary services to the child's parent(s) or guardian(s).
- (8) Types of services necessary, including treatment plan for placement with a treatment agency.
- (9) Planned length of placement including the removal and/or discharge plan specified in Section 88068.4.

(b) The foster family agency shall ensure that the child, age and maturity permitting, his/her authorized representative(s), the certified parent(s) or the foster family home licensee(s) are offered the opportunity to participate in the development of the needs and services plan.

- (1) The needs and services plan shall not be implemented unless prior written approval of the plan has been obtained from the child's authorized representative.

(c) The foster family agency shall provide the certified parent(s) or the foster family home licensee(s) and the child's authorized representative with a copy of the needs and services plan.

(d) A needs and services plan shall be completed within 30 calendar days from the date of placement for all children in a certified family home or licensed foster family home.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1531, Health and Safety Code.

Adopt new Section 88068.3 to read:

88068.3 MODIFICATIONS TO NEEDS AND SERVICES PLAN

88068.3

- (a) The needs and services plan specified in Section 88068.2 shall be updated at least every six months to determine the following:
- (1) The child's need for continuing services.
  - (2) The need for modification in services.
  - (3) The foster family agency recommendation regarding the feasibility of the child's return to his/her home, placement in another facility or move to independent living.
- (b) The foster family agency shall ensure that the child, age permitting, and his/her authorized representative(s), the certified parent(s) or the foster family home licensee(s) are offered the opportunity to participate in such review.
- (1) Modifications of the needs and services plan shall not be implemented unless prior written approval of the plan has been obtained from the child's authorized representative(s).
- (c) The foster family agency shall provide the certified foster parent(s) or the foster family home licensee(s) and the child's authorized representative(s) with a copy of the modified need(s) and services plan.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1531, Health and Safety Code.

Adopt new Section 88068.4 to read:

88068.4 REMOVAL AND/OR DISCHARGE PROCEDURES

88068.4

- (a) The foster family agency shall develop, maintain and implement written policies and procedures governing a child's removal and/or discharge from a certified family home or licensed foster family home.
  - (1) Child, age and maturity permitting, and his/her authorized representative(s) shall receive copies of the procedures.
  - (2) Copies of the procedures, signed by the child's authorized representative(s), shall be maintained in the child's record.
- (b) The foster family agency shall ensure that the child, age and maturity permitting, and his/her authorized representative(s) are offered the opportunity to participate in the development of a discharge plan for the child.
- (c) If the foster family agency determines that it cannot continue to meet the needs of the child, the foster family agency shall notify the authorized representative(s) of the determination and provide written notification that the child shall be removed within seven days.
- (d) The foster family agency shall not prevent the child's removal from the certified family home or licensed foster family home under emergency circumstances by an authorized person.
  - (1) Emergency circumstances include, but are not limited to:
    - (A) Removal by law enforcement officer(s) when a child is arrested or when the child(ren) in the home is endangered by his/her continued presence in the home.
    - (B) Removal for emergency medical or psychiatric care.
    - (C) Relocation by the child's authorized representative(s).

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1531, Health and Safety Code.

Adopt new Section 88069 to read:

88069 CHILDREN'S MEDICAL ASSESSMENT

88069

(a) In addition to Section 80069, the following shall apply:

- (1) The foster family agency shall provide the certified parent(s) or foster family home licensee(s) with a copy of each child's current medical assessment.
- (2) If a current medical assessment cannot be obtained, the foster family agency shall ensure that a current medical assessment is completed within 30 days of placement of the child.
  - (A) If the medical assessment cannot be completed within 30 days, a medical appointment date shall be obtained by the foster family agency within 30 days of placement of the child.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1531, Health and Safety Code.

Adopt new Section 88069.1 to read:

88069.1 HEALTH PROTECTION OF CHILDREN - GENERAL REQUIREMENTS

88069.1

- (a) Each foster family agency shall ensure the provision of preventive and remedial medical care by a qualified physician or a medical clinic. The medical care provided shall include:
- (1) For infants, well baby care; for all other children, medical interventions as required.
    - (A) Physical examinations must be conducted at least annually or more often as recommended by a physician.
  - (2) Prompt treatment of remediable physical conditions.
  - (3) Necessary laboratory tests and immunizations.
  - (4) Tuberculin test or chest X-ray, and when indicated, provision for nose and throat culture and appropriate tests for sexually transmitted disease(s) for each child.
  - (5) Care in case of illness or accident, including provision for medical care and hospitalization as required.
  - (6) Dental examinations annually followed by necessary treatment; and arrangements for orthodontic care for the child when funding and services are available.
  - (7) Continuing observation of the child's progress and discussion with the physician of any changes from satisfactory conditions.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1531, Health and Safety Code.



Adopt new Section 88069.2 to read:

88069.2 IMMUNIZATIONS

88069.2

(a) A child for whom vaccination against the following diseases cannot be verified shall receive the first dose of the appropriate vaccines as determined by a physician within 30 calendar days of placement in the home and shall receive follow-up doses as recommended by a physician.

- (1) Poliomyelitis.
- (2) Diphtheria.
- (3) Pertussis, i.e., whooping cough.
- (4) Tetanus.
- (5) Measles.
- (6) Rubella, i.e., German measles.
- (7) Mumps.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1531, Health and Safety Code.

Adopt Section 88069.7 to read:

88069.7 CONTENT OF CERTIFIED FAMILY HOME OR LICENSED FOSTER FAMILY  
HOME CASE RECORD

88069.7

- (a) Each foster family agency shall maintain a case record for each certified family home or licensed foster family home used by the foster family agency.
- (b) Each case record shall include the following information on each home:
  - (1) A face sheet or application form.
  - (2) A typewritten record of the home study.
  - (3) Medical reports.
  - (4) Correspondence.
  - (5) Applicable legal documents.
  - (6) Verifications of required information.
  - (7) Evaluation of findings.
  - (8) Decisions reached.
  - (9) Actions taken.
  - (10) Contacts with references.
  - (11) A record of each child placed in the home and the dates the child was in care.
- (c) In addition to Subsection (b) above, each case record of a certified family home shall include:
  - (1) Fingerprint clearances.
  - (2) Child Abuse Index Check Clearances.
  - (3) Any necessary fire clearances as specified in Section 83020.
  - (4) A copy of the Certificate of Approval.
  - (5) Documentation of the required 12 hours of annual training for certified parents as required by Section 1506(b)(2) of the Health and Safety Code.
- (d) All information in case records shall be confidential and shall be available only to the licensing agency, placement agency staff and the foster family agency personnel who need access for the performance of their duties.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1522, 1522.1, 1530 and 1531, Health and Safety Code.

Adopt new Section 88070 to read:

88070 CHILDRENS CASE RECORDS

88070

(a) In addition to Section 80070, the following shall apply:

- (1) The following information regarding the child shall be obtained and maintained by the foster family agency:
  - (A) The name, address, and telephone number of the adults with whom the child was living immediately prior to the current placement.
  - (B) The name, address, and telephone number of the child's parent(s), if known.
  - (C) The name, address, and telephone number of the placement worker and placement agency.
  - (D) Educational records, if available, describing the child's present academic level, including his/her grade or performance level, and any previous school-related problems.
  - (E) Dental and medical history, if available, including immunization records and physician's orders for any medically necessary diet.
  - (F) The child's court status, if applicable, including a copy of any custody orders and agreements with parent(s) or person(s) having legal custody.
  - (G) The list of persons who should or should not be allowed to visit and any limitations on visitation.
  - (H) Medical, psychiatric and psychological reports that identify special needs of the child diagnosed as mentally disordered or developmentally disabled.
  - (I) Medical and dental insurance coverage information including the placement agency or person responsible for medical and dental costs.
  - (J) Consent forms, completed by the child's authorized representative(s), to permit the foster family agency, certified parent(s) or foster family home licensee(s) to authorize medical and dental care.
  - (K) A copy of the child's original, and any modified, needs and services plan.
  - (L) Signed copies of the foster family agency policies and procedures regarding the termination of the child's placement, discipline, and complaints.

- (M) Documentation that vaccinations have been obtained as specified in Section 88069.2, if immunization records are not available prior to placement.
- (N) Copy of the foster family agency agreement with authorized representative(s).
- (O) Copy of the foster family agency agreement with the certified parents or foster family home licensees.
- (2) The following information shall be maintained in the child's record if it is determined that the child is to be removed or discharged from the foster family agency:
  - (A) Date the child's authorized representative(s) was notified of the necessity for the child's removal or discharge.
  - (B) The name, address and relationship to the child of the person to whom the child was released.
  - (C) Reason for the child's removal or discharge.
- (3) All information in childrens case records shall be confidential and shall be available only to the licensing agency, placement agency staff and foster family agency personnel who need access for the performance of their duties.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1506(b)(2), 1530 and 1531, Health and Safety Code.

Adopt new Article 8 and Section 88087 to read:

ARTICLE 8. PHYSICAL ENVIRONMENT

88087 ADMINISTRATIVE OFFICE/SUBOFFICE(S)

88087

- (a) Notwithstanding Section 80087, the foster family agency shall be housed in an administrative office/suboffice(s) which provide privacy for interviewing and are conveniently located for the public.
  - (1) The office(s) shall have a separate and secure area if the foster family agency is located in a building that is also used for nonfoster family agency purposes.
- (b) All confidential foster family agency records shall be maintained in locked file cabinets in the administrative office/suboffice(s).
- (c) The administrative office shall maintain the following records:
  - (1) Case records for the children, certified family homes and licensed foster family homes served by this office;
  - (2) All personnel records.
  - (3) The index as specified in Section 88022(b).
- (d) Each suboffice shall maintain:
  - (1) The case records for the children in placement and the certified family homes and licensed foster family homes used by the suboffice.
- (e) No foster family agency shall provide services to children or homes which are located more than two hours by car from the administrative office or suboffice(s) providing the service.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1531, Health and Safety Code.

Amend Chapter 9 and Section 89001 to read:

Chapter 9. ~~Homefinding~~ And Adoption Agencies

Article 1. License

89001 LICENSE REQUIRED

89001

~~(d) No individual, organization or county shall engage in finding homes or other facilities for placement of persons of any age for temporary or permanent care without first obtaining a license from the Department.~~

(~~b~~a) No individual, organization or county shall place persons for adoption without first obtaining a license from the Department.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1506, 1508, 1530 and 1531, Health and Safety Code.

Amend Section 89004 to read:

89004 AGENCY ELIGIBILITY FOR LICENSURE

89004

- (a) Each agency shall conform to all applicable rules and regulations of the Department and shall make provision for resources, either in the agency or in the community, for support of persons accepted for care; and for medical and psychiatric services for persons as needed/ ~~and for an adequate number of foster homes/~~ The agency shall coordinate its services with other community social services.
- (b) The following types of agencies shall be subject to licensure:
- 11) *County Nonresidential Agency/ A county nonresidential agency shall be designated by the Board of Supervisors as a county agency through which nonresidential services will be offered/*
- 12) *Private Nonresidential Agency/ A private nonresidential agency shall be organized and operated on a nonprofit philanthropic basis/*
- (31) (Continued)
- (42) (Continued)
- (c) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1506, 1508, 1530 and 1531, Health and Safety Code.

Repeal Section 89010:

89010 PLACEMENT OF PERSONS IN NONLICENSED FACILITIES  
BY A COUNTY AGENCY

89010

1a) Any county agency designated by the county board of supervisors to perform the service, may place persons for temporary care not licensed pursuant to section 1508 of the Health and Safety Code, provided both of the following conditions are met:

11) The county agency is licensed as a county homefinding agency by the Department and is authorized by the Department to issue certificates of approval to homes selected for its exclusive use;

12) The homes in which persons are placed by the county agency hold certificates of approval issued by that agency;

Authority Cited: Section 1570, Health and Safety Code;

Reference: Sections 1501, 1505, 1506, 1570 and 1571, Health and Safety Code;



Amend Section 89013 to read:

89013 LICENSING PROCEDURE-APPLICATION FORMS

89013

Application for a license as an ~~homefinding~~ of adoption agency shall be filed in duplicate on forms prescribed by the Department.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Amend Section 89016 to read:

89016 LICENSING PROCEDURE--LOCATION

89016

*Application by a private homefinding agency shall be made to the district office of the department which serves the area where the agency is located, or to the licensing agency which serves the area where the homefinding agency is located. Public and private adoption agencies and public homefinding agencies shall apply to Department headquarters.*

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Amend Section 89019 to read:

89019 APPLICATION FOR LICENSURE ~~HOMEFINDING AND ADOPTION~~  
~~AGENCIES~~

89019

- (a) A new application from a public agency shall be signed by the chairman of the Board of Supervisors of the county, and a copy of the resolution of the Board authorizing the chairman to sign the application shall be attached. In authorizing the application, the Board shall show its intent to operate the ~~Homefinding of~~ adoption program in full conformity with the statutes and the Department regulations.
- (b) (Continued)
- (c) (Continued)
- (d) Every new application for an ~~Homefinding of~~ adoption agency shall be accompanied by: (Continued)
- (e) Denial of License. An applicant may contest the denial of a ~~Homefinding of adoption agency~~ license by filing a written petition with the Department as provided in Section 1526 of the Health and Safety Code. The proceedings to review such denial shall be conducted pursuant to the provision of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.
- (f) (Continued)
- (g) Renewal of License. An application for renewal of a ~~Homefinding of adoption agency~~ license shall be on a form prescribed by the Department and shall be filed in duplicate with the Department not less than 30 days prior to the expiration date of the current license. Failure to make application for renewal within the prescribed time shall result in expiration of the license.
  - (1) An ~~Homefinding of~~ adoption agency which has filed application for the renewal of its license within the time specified by law shall be deemed to be operating under a license of the Department until such time as the application has been acted upon.
  - (2) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1506, 1508, 1530 and 1531, Health and Safety Code.

Amend Section 89034 to read:

89034 CRIMINAL RECORD CLEARANCE

89034

- (a) Fingerprint cards for ~~personnel~~ of personnel of private ~~nonresidential~~ and adoption agencies shall be forwarded directly to the Department, per Section 80019 of Chapter 1 of these regulations.
- (b) Personnel of public ~~nonresidential agencies and public~~ adoption agencies, members of the County Board of Supervisors and administrators of private adoption agencies shall be exempt from the provisions of Section 80019.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1506, 1522, 1530 and 1531, Health and Safety Code.

Amend Section 89037 to read:

89037 APPLICATION REVIEW

89037

No license shall be issued to an ~~nonresiding~~ adoption agency unless and until the Department or licensing agency has reviewed and evaluated the plan of operation to determine if there is compliance with the statutes and regulations and other standards of the Department.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Amend Section 89040 to read:

89040 TERMS OF LICENSE

89040

(a) ~~Homefinding/~~ Adoption and placement services which a licensee may render shall be limited to those specified on the license. ~~The department may authorize the agency to issue certificates of approval to homes selected for its exclusive use as indicated on the agency's license. The license of an agency not authorized to issue such certificates will specify that persons are to be placed in licensed homes only.~~

(b) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Amend Section 89101 to read:

89101 ADMINISTRATIVE RESPONSIBILITY

89101

Legal responsibility for an ~~nonpending~~ adoption agency or service shall be clearly defined and administrative responsibility specifically placed in accordance with these regulations.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Repeal Section 89104 to read:

89104 COORDINATION WITH SOCIAL SERVICE PROGRAMS

89104

THE HOMEFINDING PROGRAM SHALL BE COORDINATED WITH THE OTHER SOCIAL SERVICE PROGRAMS IN THE COMMUNITY.

AUTHORITY CITED: SECTION 1530, HEALTH AND SAFETY CODE.

REFERENCE: SECTIONS 1501, 1503, 1506, 1520, 1530 AND 1531, HEALTH AND SAFETY CODE.



Amend Section 89107 (Title) to read:

89107 INCORPORATION--PRIVATE ~~HOMEFINDING AND~~ ADOPTION AGENCIES  
(Continued)

89107

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and  
Safety Code.

Amend Section 89110 to read:

89110 CONSTITUTION AND BY-LAWS -- PRIVATE ~~HOMEFINDING~~  
~~AND~~ ADOPTION AGENCIES (Continued)

89110

(b) The constitution and by-laws shall contain the following information:

(1) (Continued)

(2) (Continued)

(3) The relationship of the ~~homefinding and placement service~~ of the adoption service to the general membership, to the total function of the organization and to auxiliaries, if any.

(4) Location of the administrative authority for operation of the ~~homefinding and placement program~~ of adoption program.

(5) through (10) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Amend Section 89113 (Title) to read:

89113 BOARD MEMBERSHIP -- PRIVATE ~~NONPROFIT~~  
~~AND~~ ADOPTION AGENCIES

89113

(a) (Continued)

(b) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and  
Safety Code.

Amend Section 89116 (Title) to read:

89116 ELECTION OF BOARD MEMBERS -- PRIVATE ~~HOMEFINDING~~  
~~AND~~ ADOPTION AGENCIES (Continued)

89116

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and  
Safety Code.

Amend Section 89119 (Title) to read:

89119 BOARD MEETINGS -- PRIVATE ~~HOMEFINDING AND~~  
ADOPTION AGENCIES (Continued)

89119

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and  
Safety Code.

Amend Section 89122 (Title) to read:

89122 DUTIES AND FUNCTIONS OF THE BOARD -- PRIVATE  
~~HOMEFINDING AND~~ ADOPTION AGENCIES

89122

(a) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and  
Safety Code.

Amend Section 89125 (Title) to read:

89125 COMMITTEES OF THE BOARD -- PRIVATE ~~HOMEFINDING~~  
~~AND~~ ADOPTION AGENCIES (Continued)

89125

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and  
Safety Code.

Amend Section 89128 (Title) to read:

89128    RELATIONSHIP BETWEEN BOARD AND EXECUTIVE -- PRIVATE  
         ~~HOMEFINDING AND~~ ADOPTION AGENCIES (Continued)

89128

Authority Cited:    Section 1530, Health and Safety Code.

Reference:           Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and  
                         Safety Code.



Amend Section 89131 (Title) to read:

89131    REPORTS AND RECORDS -- PUBLIC AND PRIVATE  
         ~~HOMEFINDING AND~~ ADOPTION AGENCIES

89131

(a) and (b)    (Continued)

Authority Cited:    Section 1530, Health and Safety Code.

Reference:           Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and  
                         Safety Code.

Amend Section 89134 (Title) to read:

89134 FINANCES -- PRIVATE ~~HOMEFINDING AND~~ ADOPTION AGENCIES

89134

(a) through (e) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and  
Safety Code.

Amend Section 89140 to read:

89140 GENERAL PERSONNEL REQUIREMENTS

89140

The number of staff shall be adequate for the scope of the ~~nonfinding of~~ adoption agency's services.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Amend Section 89143 (Title) to read:

89143    PROFESSIONAL STAFF QUALIFICATIONS ~~// HOMEFINDING~~  
         ~~AND ADOPTION AGENCIES~~ (Continued)

89143

Authority Cited:    Section 1530, Health and Safety Code.

Reference:           Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and  
                         Safety Code.

Amend Section 89146 (Title) to read:

89146 EXECUTIVE DIRECTOR QUALIFICATIONS -- PRIVATE  
~~HOMEFINDING AND~~ ADOPTION AGENCIES

89146

(a) and (b) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and  
Safety Code.

Amend Section 89149 to read:

89149 EXECUTIVE DIRECTOR RESPONSIBILITY AND DUTIES --  
PRIVATE AND PUBLIC ~~NONRESIDENTIAL~~ ADOPTION AGENCIES

89149

(a) (Continued)

(b) Private Agencies. The duties of the executive director shall include:

(1) (Continued)

(2) Attending all regular Board meetings and committee meetings of the Board, making reports concerning agency activities, and interpreting recognized standards of ~~out-of-home care~~ and adoption services to the Board.

(3) and (4) (Continued)

(5) Carrying out ~~a nonresidential and placement program~~ of an adoptive program in conformity with recognized standards.

(6) (Continued)

(c) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Amend Section 89152 to read:

89152 SUPERVISORY PERSONNEL

89152

- (a) Responsibility. Each supervisory employee in an adoption or ~~homefinding~~ agency shall be responsible for the performance of assigned staff.
- (b) Qualification Requirements. Supervisory employees shall have the following qualifications.

(1) (Continued)

- (2) Private Agency. Supervisors shall be qualified for their responsibilities by education and experience, the minimum of which shall be possession of a master's degree from an accredited graduate school of social work or completion of all work toward the degree except the thesis, and either:

(A) (Continued)

- (B) Two years of full-time social work employment in a licensed ~~homefinding~~ foster family agency or adoption agency.

13) Optional Requirement -- ~~homefinding~~ Agency. In a public or private ~~homefinding~~ agency, a master's degree in behavioral science from an accredited graduate school as the only requirement for supervisory personnel may be authorized by the department if the agency has department approved ~~in-service~~ training and staff development programs for staff not possessing formal social work training.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Amend Section 89155 to read:

89155 SOCIAL WORK PERSONNEL

89155

- (a) Social workers shall be employed to provide the social services in the agency's ~~homefinding~~ of adoption program.
- (b) (Continued)
- (c) Optional Requirements -- Public Agencies. Upon approval of waiver and except as provided in this section, the Department may authorize a public ~~homefinding~~ of adoption agency to use one or more of the following optional qualification requirements in the order given. (Continued)
- (d) Optional Requirements -- Private Agencies. Upon approval of waiver, and except as provided in this section, the Department may authorize a private ~~homefinding~~ of adoption agency to use the optional requirement of graduation from college and two years of social work experience in a social service agency. One year of graduate education in social work, or completion of an undergraduate major in social welfare may be substituted for one year of the required experience. Completion of a Department approved in-service training course, or completion of an undergraduate major in a field closely related to social welfare may be substituted for six months of the required experience. In all cases, however, a minimum of one year of experience shall be required under these substitution patterns.
- (e) Additional Optional Requirement -- Public and Private Homefinding Agency/ In a homefinding agency/ the Department may authorize the provision of social services by a person with a baccalaureate degree in a behavioral science from an accredited college or university/ provided that direct supervision is given by a social worker meeting the requirements contained in Section 89152 of these regulations/*
- (f) Additional Waiver Option for Both Public and Private Adoption of ~~Homefinding~~ Agencies. Graduation from college as the only requirement for social work personnel may be authorized if the agency has Department approved in-service training and staff development programs for staff recruited at this level.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.



Amend Section 89158 to read:

89158     NUMBER OF STAFF

89158

Professional and clerical staff shall be sufficient in number to perform the functions of the ~~Nonresidential~~ adoption agency.

Authority Cited:    Section 1530, Health and Safety Code.

Reference:           Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Amend Section 89161 to read:

89161 PERSONNEL POLICIES

89161

- (a) In addition to the general requirements there shall be written personnel policies for ~~nonresidential~~ and adoption agencies which include, but are not limited to the following: (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Amend Section 89164 (Title) to read:

89164 OFFICE FACILITIES ~~// ADOPTION AGENCIES~~

89164

(a) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Repeal Section 89167:

89167 HOMEFINDING AND PLACEMENT SERVICES

89167

(a) General Requirements/ The processes of intake/ placement/ supervision and termination of care shall be in accordance with accepted standards of child and family care and social casework/ services provided shall adhere to the following principles of placement for children and adults/

(1) A person shall have a basic right to his own home and family/

(2) Alternatives for out-of-home placements to children and adults should be explored/

(3) The type of service provided shall be based upon consideration of the client's needs and his family situation/

(4) The out-of-home care given shall provide opportunities for maximum development of each client's native capabilities and shall further his personal growth/

(b) Written intake policy/ Every homefinding agency shall state its intake policies in writing and make such written policies available to the public/

Authority cited/ Section 1530/ Health and Safety Code/

Reference/ Sections 1501/ 1503/ 1506/ 1520/ 1530 and 1531/ Health and Safety Code/

Amend Section 89173 to read:

89173 PLACEMENT AND SUPERVISION ~~// HOME FINDING~~  
~~AND ADOPTION AGENCIES~~

89173

(a) (Continued)

(b) (Continued)

(c) (Continued)

(d) (Continued)

(e) (Continued)

(f) The agency shall maintain adequate supervision through sufficiently frequent visits to the client, the caretaker and the client's own family. The frequency of such visits shall be determined by the circumstances of each case and the discretion of the agency. ~~The caseload of a worker/ exclusive of the adoption program/ giving full time to the supervision of individuals in foster homes should not exceed 25 clients/~~ If the worker carries other responsibilities such as recruitment or foster home finding, intake, work with clients with serious emotional disturbances, or work with clients in their own families, or if the geographical area to be covered is widespread, the caseload should be proportionately reduced.

(g) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Repeal Section 89176:

89176 TERMINATION OF FOSTER CARE

89176

(a) Termination of Agency care shall be determined by casework study and planning which includes:

(1) Continuing study of the home and planning with the family and client which shall precede the return of the client to his own or a relative's home;

(2) Arrangements for adequate follow-up service and supervision;

Authority cited: Section 1330, Health and Safety Code.

Reference: Sections 1301, 1306, 1330 and 1331, Health and Safety Code.

Amend Section 89179 to read:

89179 CASE RECORDS -- GENERAL REQUIREMENTS

89179

(a) The ~~nonresiding~~ of adoption agency shall maintain adequate case records which include: (Continued)

(b) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Amend Section 89182 to read:

89182      CONTENT OF CASE RECORD

89182

- (a) Each ~~Notwithstanding~~ adoption agency shall maintain a case record for each family unit or individual served in its program.
- (b) (Continued)
- (c) (Continued)

Authority Cited:    Section 1530, Health and Safety Code.

Reference:           Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.



Repeal Section 89185:

89185 FOSTER HOMES USED EXCLUSIVELY BY A LICENSED  
HOMEFINDING AGENCY

89185

THE DEPARTMENT SHALL REVIEW THE ACTIVITIES OF A HOMEFINDING AGENCY IN SELECTING  
HOMES FOR ITS EXCLUSIVE USE. THE DEPARTMENT MAY TERMINATE ITS APPROVAL OF THE  
AGENCY'S AUTHORITY IN SELECTION AND USE OF FOSTER HOMES EXCEPT FROM LICENSE.

AUTHORITY CITED: SECTION 1330/ HEALTH AND SAFETY CODE.

REFERENCE: SECTIONS 1301/ 1303/ 1306/ 1320/ 1330 AND 1331/ HEALTH AND  
SAFETY CODE.

Repeal Section 89188:

89188 IDENTIFICATION OF EXCLUSIVE USE FOSTER HOMES

89188

Each nonlicensed home in the exclusive use of a licensed homefinding agency shall be provided with a certificate of approval/ properly completed and signed by the executive or other representative of the agency/ A copy of the certificate of approval shall be kept in the records maintained by the agency for each home/ Exclusive use homes shall conform to the regulations for /General Licensing Requirements/ Chapter 1/ Article 1/ commencing with section 80000/ and /Small Family Home/ Chapter 4/ commencing with section 81000/

Authority Cited/ Section 1570/ Health and Safety Code/

Reference/ Sections 1501/ 1503/ 1506/ 1520/ 1530 and 1531/ Health and Safety Code/

Repeal Section 89191:

89191 NOTIFICATION

89191

- (a) A homefinding agency shall notify the department of the licensing agency of each foster home approved for exclusive use; each foster home rejected after study and each foster home for which exclusive use is being terminated.
- (b) Notification by the homefinding agency shall be within 30 days after action to approve, reject or terminate the use of the foster home.
- (c) A homefinding agency shall also send immediate notification of a desired change to the department of licensing agency when:
  - (1) A home approved for exclusive use wishes to become a licensed home.
  - (2) A licensed home wishes to become a home approved for the exclusive use of the agency and the agency plans to issue a certificate of approval to this foster home.

Authority cited: Section 1330, Health and Safety Code.

Reference: Sections 1301, 1303, 1306, 1320, 1330 and 1331, Health and Safety Code.

Repeal Section 89194:

89194 CONFIDENTIAL NATURE OF RECORDS AND INFORMATION

89194

Information concerning exclusive use homes shall be confidential except that the Department of Licensing Agency may require such information as may be needed for determining compliance with these regulations.

Authority Cited: Section 1330, Health and Safety Code.

Reference: Sections 1301, 1303, 1306, 1320, 1330 and 1331, Health and Safety Code.

Repeal Section 89197:

89197 LOCAL ORDINANCES

89197

Foster parents shall be notified by the homefinding agency that they must comply with existing local ordinances.

Authority Cited: Section 1330/ Health and Safety Code.

Reference: Sections 1301/ 1303/ 1306/ 1320/ 1330 and 1331/ Health and Safety Code.

Repeal Section 89200:

89200 ADHERENCE TO LIMITATIONS OF CERTIFICATE OF APPROVAL

89200

THE EXCLUSIVE USE FOSTER HOME APPROVED BY THE HOMEFINDING AGENCY SHALL ACCEPT ONLY THOSE CHILDREN OF ADULTS PLACED BY THE AGENCY WHICH APPROVED THE HOME.

AUTHORITY CITED: SECTION 1530/ HEALTH AND SAFETY CODE.

REFERENCE: SECTIONS 1501/ 1503/ 1506/ 1520/ 1530 AND 1531/ HEALTH AND SAFETY CODE.

Repeal Section 89203:

89203 CHANGE OF ADDRESS OR MANAGEMENT

89203

A Certificate of Approval is not transferable and shall be nullified upon a change of location or management. Another social study shall be made before a Certificate of Approval is again issued by the homefinding agency.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1503, 1506, 1520, 1530 and 1531, Health and Safety Code.

Repeal Section 89206:

89206 EMERGENCY CONDITIONS -- CONTINUATION OF LICENSE

89206

The homefinding agency may consent to a change of location and continuation under the existing certificate of approval of any exclusive use foster home for a reasonable period of time, when the change is required because of the destruction of the premises or similar emergency conditions, so long as the new location or place of performance conforms to current standards of fire safety, sanitation, health and other conditions.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1503, 1506, 1520, 1530 and 1531, Health and Safety Code.



Repeal Section 89209:

89209 HOME STUDY AND CASE RECORD

89209

- 12) Each exclusive use foster home study shall include all steps necessary to determine if applicable standards are met and includes the following:
- 11) All members of the potential foster family shall be seen.
  - 12) There shall be as many office interviews and home visits as necessary to determine whether the agency can use the home and for what type of child or adult.
  - 13) The exclusive use foster home study shall be fully recorded.
  - 14) A separate case record shall be maintained for each exclusive use foster home. In addition to the home study, the record shall contain:
    - 1X) A face sheet of application form.
    - 1Y) All pertinent correspondence.
    - 1Z) Medical clearance.
    - 1A) Any necessary fire clearance.
    - 1B) A copy of the Certificate of Approval.
    - 1C) A record of each child placed in the home and the dates the child received care.
    - 1D) Contacts with references.
  - 15) A periodic recorded evaluation of the continuing service rendered by each home shall be made at least annually, and preferably quarterly.
  - 16) An evaluation of the home shall be made each time a client is removed.
  - 17) All changes in the foster family situation, such as family composition, health, employment and housing shall also be recorded.

Authority cited: Section 1570, Health and Safety Code.

Reference: Sections 1501, 1503, 1506, 1520, 1530 and 1531, Health and Safety Code.

Repeal Section 89212:

89212 MASTER FILE

89212

The homefinding agency shall maintain a master file of all foster homes studied and used by the agency, including any licensed homes.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.

Repeal Section 89215:

89215 CASE PROCESSING CONTROLS

89215

12) Such card files and controls as may be necessary shall be maintained in connection with case processing such as:

11) Pending applications/

12) Periodic evaluations/

13) Any annual fire clearances/

14) Foster homes in use/

15) Foster homes studied and available for use/

Authorizing cited/ sections 1530/ Health and Safety Code/

Reference/ sections 1501/ 1505/ 1506/ 1520/ 1530 and 1531/ Health and Safety Code/

Repeal Section 89218:

89218 USE OF LICENSED HOMES AND HOMES HOLDING A  
CERTIFICATE OF APPROVAL

89218

(a) A licensed homefinding agency may use a licensed home/

(b) A home approved for the exclusive use of a licensed homefinding agency shall not be used by another agency/

(c) The individual needs of each client as well as the physical accommodations of the home and the ability of the foster parents/ shall determine the number of clients who may be placed in an exclusive use home/ however/ no more than six (6) persons may be placed in such a home/

Authority Cited/ Section 1530/ Health and Safety Code/

Reference/ Sections 1501/ 1503/ 1506/ 1520/ 1530 and 1531/ Health and  
Safety Code/

Amend Section 89221 to read:

89221 HEALTH PROTECTION OF CLIENTS -- GENERAL REQUIREMENT

89221

(a) Each ~~nonresiding~~ of adoption agency shall provide adequate preventive and remedial medical care through a qualified physician, or through a medical clinic organized to provide the necessary medical service. The medical care provided shall include:

(1) (Continued)

(2) Prompt treatment of remediable physical conditions.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1505, 1506, 1520, 1530 and 1531, Health and Safety Code.